

## **EXHIBIT B**

Court File No. CV-14- 515899

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Application under s.140 of the *Courts of Justice Act*,  
R.S.O. 1990, c. C.43

B E T W E E N :

**PEOPLES TRUST COMPANY, DAVID BROOKER, TARAS KULISH, MOSES MUYALL, MICHAEL HAROLD KIMBERLY, IRENE MARY KIMBERLY, STANCER GOSSIN ROSE, RAYMOND STANCER, MITCHELL HART ROSE, ROSE AND ROSE, BLAIR COLEMAN ROSE, SCOTT KELLY, RAHUL SHASTRI, IRA T. KAGAN, DAVID WINER, DAVID SLOAN, BAKER SCHNEIDER RUGGIERO, PATRICE COTE, RON HATCHER, STEINBERG MORTON FRYMER LLP, MICHAEL JOHN MITCHELL, NICHOLAS CARLOS CANIZARES, DAVID HART, BRESVER SCHEININGER & CHAPMAN LLP, RUI RUIVO, FRANK PA, ATLANTIC (HS) FINANCIAL CORPORATION, TOM PIRES, MEGACORP KRISHAN CHAHAL, and NUTAN CHAHAL**

Applicants

-and-

**NADIRE ATAS and 626381 ONTARIO LIMITED**

Respondents

**AFFIDAVIT OF CRISTINE PERRI**

(Sworn September 23, 2014)

(Volume 1 of 7 )

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Peoples Trust Company

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08-346821	Tom Pires, Megacorp, Atlantic (HS) Financial Corporation, Frank S.C. Pa, Rui Ruivo, Ron Hatcher	\$235,000
08-349206	David A. Brooker	\$150,000
08-354613	Steinberg, Morton, Frymer, Taras Kulish, Moses Muyall	\$150,000
09-391695	Kimberley and Kimberley (law firm), Michael Harold Kimberley, Irene Mary Kimberley	\$1,000,000

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Court File No.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
Application under s.140 of the *Courts of Justice Act*,  
R.S.O. 1990, c. C.43

B E T W E E N :

**PEOPLES TRUST COMPANY, DAVID BROOKER, TARAS KULISH, MOSES MUYALL, MICHAEL HAROLD KIMBERLY, IRENE MARY KIMBERLY, STANCER GOSSIN ROSE, RAYMOND STANCER, MITCHELL HART ROSE, ROSE AND ROSE, BLAIR COLEMAN ROSE, SCOTT KELLY, RAHUL SHASTRI, IRA T. KAGAN, DAVID WINER, DAVID SLOAN, BAKER SCHNEIDER RUGGIERO, PATRICE COTE, RON HATCHER, STEINBERG MORTON FRYMER LLP, MICHAEL JOHN MITCHELL, NICHOLAS CARLOS CANIZARES, DAVID HART, BRESVER SCHEININGER & CHAPMAN LLP, RUI RUIVO, FRANK PA, ATLANTIC (HS) FINANCIAL CORPORATION, TOM PIRES, MEGACORP KRISHAN CHAHAL, and NUTAN CHAHAL**

Applicants

-and-

**NADIRE ATAS and 626381 ONTARIO LIMITED**

Respondents

**AFFIDAVIT OF CRISTINE PERRI**  
(sworn September 23, 2014)

I, Cristine Perri, of the City of Brampton, in the Regional Municipality of Peel, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a litigation assistant at Dale & Lessmann LLP ("D&L", lawyers for the Applicant, Peoples Trust Company ("Peoples"), and have been employed with D&L since April 10, 2000, and thus have knowledge of all legal proceedings involving the Applicant and the Respondents which commenced in 2007.

2. This Affidavit is made by me for use on an application under section 140 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, to have the Respondents declared vexatious litigants.

3. The matters to which I hereinafter depose are either based on my own knowledge, information, and belief concerning the facts from court documents, documents in the possession of D&L, and other public records. Where my statements contain information or belief with respect to knowledge not directly known by me, I have informed myself and have indicated the source of my information and belief.

4. The statements contained in this Affidavit contain information concerning the following:

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	Description	Action No.	Parties	Nature of Claim	Related Matters	Affidavit Page No.
				Damages Claimed: \$2,000,000 special and general damages \$500,000 aggravated and punitive damages	•Mar 19/12 Motion	46
					•Current Status	47
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C.	Wycliffe Mortgage Action	08-364585	Peoples v. Atas	Action for non-payment of Mortgage	•Background	51
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D.	Wycliffe Action	11-429180	Atas v. Peoples	Negligent and fraudulent misrepresentation, discrimination, wrongful interference, wrongful possession, improvident value, rescission and rectification, unconscionable transaction, emotional and mental distress  Damages Claimed: \$2,000,000 special and general damages \$500,000 aggravated and punitive damages	•Background	68
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	Description	Action No.	Parties	Nature of Claim	Related Matters	Affidavit Page No.
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## A: GEORGE ST. MORTGAGE ACTION – PEOPLES V. ATAS, 626

### Background

5. On April 16, 2008, Peoples issued a Statement of Claim in Action No. 08-CV-352871PD2 (“**George St. Mortgage Action**”) for payment under the terms of the mortgage and for possession of the property municipally known as 298 St. George Street, Toronto, Ontario (the “**George St. Property**”). Attached hereto and marked as **Exhibit “1”** to this my Affidavit is a copy of the said Statement of Claim.

6. The background details giving rise to the George St. Mortgage Action are as follows:

- (a) On June 1, 2006, a mortgage was entered into between Nadire Atas (“**Atas**”), 626381 Ontario Limited (“**626**”), and Peoples in the amount of \$543,750 with a maturity date of December 1, 2006, and registered on title on May 17, 2006 (the “**George Street Mortgage**”). Atas as the sole shareholder, office, and director of 626 guaranteed the George Street Mortgage. The George St. Property subject to the George Street Mortgage is a single family home converted into four residential units. The units were rented to three tenants and Atas lived in the fourth unit. 626 is a company incorporated by Atas.



(b) The George Street Mortgage was obtained by the Respondents to refinance the George St. Property resulting in the discharge of three existing mortgages as follows:

- (i) First Mortgage – Toronto Dominion Bank
- (ii) Second Mortgage – John Gomes and Scott Kelly
- (iii) Third Mortgage – Hatcher/Toronto Dominion Bank (Waterhouse)

(c) Attached hereto and marked as **Exhibit “2”** to this my Affidavit is a copy of the Parcel Register for the George St. Property obtained by me on September 9, 2014.

- (i) The Respondents have sued the mortgagees, John Gomes, Scott Kelly, and Hatcher. Attached hereto and marked as **Exhibit “3”** to this my Affidavit is a copy of the Statements of Claim and Statements of Defence in those actions.
- (ii) Additionally, the Respondents have commenced court actions against the following lawyers who represented the Respondents with respect to the second mortgage to John Gomes and Scott Kelly as well as against lawyers the Respondents retained in those actions. Attached hereto and marked **Exhibit “4”** to this my Affidavit is a copy of the Statements of Claim and Statement of Defences in the following actions:

Action Number	Defendants	Total Amount Claimed
07-343745	Kagan, Shastri (law firm), Irat Kagan, Rahul Shastri, David Winer, Patrice A.J. Cote, Baker Schneider Ruggiero (law firm), David J. Sloan	\$250,000
08-346821	Tom Pires, Megacorp, Atlantic (HS) Financial Corporation, Frank S.C. Pa, Rui Ruivo, Ron Hatcher	\$235,000
08-349206	David A. Brooker	\$150,000
08-354613	Steinberg, Morton, Frymer, Taras Kulish, Moses Muyall	\$150,000
09-391695	Kimberley and Kimberley (law firm), Michael Harold Kimberley, Irene Mary Kimberley	\$1,000,000

- (d) The George Street Mortgage continued after maturity on a month-by-month basis in accordance with the terms of the mortgage without any formal renewal.
- (e) In June, 2007, Atas and 626 defaulted in payment under the George Street Mortgage and demand was made for payment of the arrears. An action was commenced but discontinued following full payment by Atas and 626 of the arrears.
- (f) In October, 2007, the George Street Mortgage was again in default for non-payment of regular monthly mortgage payments and demand was made for payment. An action was commenced but discontinued following full payment of the arrears in January, 2008.
- (g) On March 14, 2008, Peoples made demand from Atas and 626 for full payment of the George Street Mortgage advising that the George Street Mortgage had matured and would not be renewed or extended further.
- (h) The George St. Mortgage Action was then commenced for payment under the terms of the mortgage and for possession of the George St. Property.

- (i) On May 8, 2008, a Notice of Sale Under Mortgage was issued which provided Atas and 626 and parties who had an interest in the George St. Property until June 16, 2008, to make payment failing which Peoples would sell the George St. Property.

### Proceedings in George St. Mortgage Action

7. The following is a summary of the court proceedings in the George St. Mortgage Action to date.

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
a)	Apr 16/08	Statement of Claim	Payment of mortgage and possession.		1
b)	May 8/08	Notice of Sale Under Mortgage issued			
c)	May 30/08	Statement of Defence	Delivered by Benjamin Salsberg and Stanley Goodman of Seon Gutstadt Lash LLP on behalf of Atas and 626. As Justice Lederer determined on March 10, 2009, the Statement of Defence denies everything including the existence of the debt or that the mortgage existed. Attached hereto and marked as Exhibit "5" to this my Affidavit is a copy of the Statement of Defence dated May 30, 2008.		5
d)	Oct 9/08	Motion for Summary Judgment scheduled (adjournment #1)	Adjourned to December 5, 2008 at Atas' lawyer's request.		
e)	Dec 2/08	request for adjournment	Atas' lawyer requested an adjournment and provided a letter from Atas' doctor which her lawyer claimed was unsolicited and that he never communicated with the said doctor or his office. Attached hereto and marked as Exhibit "6" to this my Affidavit is a copy of the said letter.		6

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
f)	Dec 5/08 * **	Adjournment #2	Justice Pollak adjourned the motion for summary judgment to February 26, 2009 to permit Atas to retain new counsel and resolve medical condition. Adjournment peremptory to Atas and 626. Attached hereto and marked as <b>Exhibit "7"</b> to this my Affidavit is a copy of the Endorsement of Justice Pollak dated December 5, 2008.		7
g)	Feb 19/09 ***	Atas request for Triage Court date	Atas unilaterally requested the court motions office to schedule an urgent triage date claiming extreme illness. The court provided Atas with a triage date of February 23, 2009 and advised Atas to serve the respondents advising that a motion date will be set at the Triage Court hearing. Atas forwarded to D&L the email exchange between herself and the court dated February 19, 2009. Attached hereto and marked as <b>Exhibit "8"</b> to this my Affidavit is a copy of the email exchange dated February 19, 2009.		8
h)	Feb 23/09 * **	Triage Court at request of Atas (adjournment #3)	Motion for summary judgment adjourned to March 10, 2009 for Atas to obtain new counsel. One final adjournment was granted given that Atas filed a doctor's note. Attached hereto and marked as <b>Exhibit "9"</b> to this my Affidavit is a copy of the Endorsement of Justice Roberts dated February 23, 2009, together with a doctor's letter dated February 21, 2009.		9
i)	Mar 10/09 **	Judgment obtained	Justice Lederer granted summary Judgment to Peoples in the sum of \$565,571.25 plus \$9,900.00 costs.  Atas appeared without counsel and sought a further adjournment. In light of Atas not complying with previous orders, the motion proceeded.	Defences and issues raised by Atas: •Mortgage had been renewed •Lawyer, David Bresver, was not Atas' lawyer •Amount of debt under the Mortgage	10 11 12 13

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			Attached hereto and marked as Exhibits "10" and "11" to this my Affidavit are copies of the said Judgment and the Endorsement of Justice Lederer.	Attached hereto and marked as Exhibits "12" and "13" to this my Affidavit are copies of the Affidavit of Atas sworn March 9, 2009, and a Letter from a doctor dated March 6, 2009, submitted to the court at the Motion for Summary Judgment.	
j)	Mar 16/09	Atas sends letter to Justice Lederer	Atas sent Justice Lederer a letter dated March 16, 2009, alleging that Sharon Small of Peoples Trust swore a false affidavit in support of the Motion for Summary Judgment regarding the issue of whether the Mortgage was renewed. Enclosed with that letter is an Affidavit sworn by Atas on March 16, 2009. Attached hereto and marked as Exhibit "14" to this my Affidavit is a copy of the Letter dated March 16, 2009, and the enclosed Affidavit.		14
k)	Apr 21/09 ***	Atas requests Triage Court date	On April 21, 2009, Atas unilaterally emailed the court and requested an urgent triage date to obtain an urgent motion date to address a false affidavit that was filed in support of a Motion for Summary Judgment. The court provided Atas with a Triage Court date of April 24, 2009, at 8:45am. Atas responded by email. Atas then forwarded her email chain of correspondence with the court to D&L. Attached hereto and marked as Exhibit "15" to this my Affidavit is a copy of the said emails.		15
l)	Apr 23/09	Atas requests adjournment	On April 23, 2009, 5:43pm Atas sent an email to Peoples Trust with copy to D&L asking for an adjournment of Triage Court and Registrar's appointment to settle Judgment scheduled for April 24,		16

## George St. Mortgage Action

	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			2009. Attached hereto and marked as <b>Exhibit "16"</b> to this my Affidavit is a copy of the said email.		
m)	Apr 23/09	Atas sends further email to Court re Triage	On April 23, 2009, at 7:45pm , Atas sent a further email to the court advising the court that she will also be seeking an Order to vacate the Notice of Appointment scheduled by D&L with the Registrar for April 24, 2009 , at 9:45am (to settle the March 10, 2009, form of Judgment as Atas refused to approve the draft Judgment as to form and content) and copied the email to D&L. Attached hereto and marked as <b>Exhibit "17"</b> to this my Affidavit is a copy of the said email.		17
n)	Apr 24/09 **	Triage Court at request of Atas	Atas sought urgent motion to vary Judgment claiming it was obtained with a false Affidavit. Motion date set for April 27, 2009. Attached hereto and marked as <b>Exhibit "18"</b> to this my Affidavit is a copy of the Endorsement of Justice Pollak dated April 24, 2009 (inadvertently dated April 23, 2009).		18
o)	April 24/09 **	Attendance before Registrar to sign Judgment	Registrar signed the Judgment of Justice Lederer dated March 10, 2009, as Atas refused to approve the draft Judgment as to form and content.		
p)	Apr 27/09 * **	Motion (adjournment #1)	I am advised by Matt Cameron, the lawyer at D&L who attended the motion on April 27, 2009, and verily believe that during the motion hearing Atas called herself an ambulance. Justice Aston adjourned the motion for continuation by written submissions. Attached hereto and marked as <b>Exhibit "19"</b> to this my Affidavit is a copy of the Endorsement of Justice Aston dated April 27, 2009.		19
q)	Apr 28/09	Atas requests Triage	On Tuesday, April 28, 2009, Atas		20

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
	***	Court date	unilaterally sent an email to the court requesting an urgent special appointment with a judge. On April 28, 2009, at 2:39pm, the court provided Atas with a Triage Court appointment for May 4, 2009, at 8:45 am. On Thursday, April 30, 10:19am Atas advised D&L of the trial court appointment by sending an email to D&L. Attached hereto and marked as <b>Exhibit "20"</b> to this my Affidavit is a copy of the email chain as aforesaid.		
r)	May 4/09	Atas sends email to court	On May 4, 2009, at 7:41am Atas sent an email to the court with a copy to D&L advising that she would be attending Triage Court that morning and setting out the relief she seeks from the court and the grounds for her relief. Attached hereto and marked as <b>Exhibit "21"</b> to this my Affidavit is a copy of the said email.		21
s)	May 4/09 * **	Triage Court at request of Atas (adjournment #2)	Motion adjourned to May 12, 2009 to be heard by Justice Aston. Attached hereto and marked as <b>Exhibit "22"</b> to this my Affidavit is a copy of the Endorsement of Justice Campbell dated May 4, 2009.		22
t)	May 5/09	Emails from Atas requesting Mortgage payout statement	On May 5, 2009, Atas sent to D&L 16 separate emails between 11:27am and 5:39pm requesting a Mortgage Discharge Statement be sent to her immediately. Attached hereto and marked as <b>Exhibit "23"</b> to this my Affidavit are copies of the said 16 emails.		23
u)	May 5/09	D&L provides Atas with Discharge Statement	On May 5, 2009, at 1:19pm D&L emailed Atas a Discharge Statement. D&L continued to respond to Atas' numerous emails referred to above advising that the Discharge Statement had been provided. Attached hereto and marked as <b>Exhibit "24"</b> to this my Affidavit is a copy of the said email		24

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			attaching the letter and Discharge Statement.		
v)	May 5/09	Atas requests Triage Court date	On May 5, 2009, at 3:36pm, Atas sent an email to the court requesting a triage motion date as soon as possible for an Order to require Peoples Trust to provide a mortgage discharge statement and alleging that Peoples Trust is refusing to provide a discharge statement and is trying to sell the property at a low price. Attached hereto and marked as <b>Exhibit "25"</b> to this my Affidavit is a copy of the said email from Atas to the court.		25
w)	May 6/09	Atas advises D&L that she is attending Triage Court	On May 5, 2009, at 4:48pm Atas sent D&L and email advising that she intends to attend Triage Court on May 6, 2009. Attached hereto and marked as <b>Exhibit "26"</b> to this my Affidavit is a copy of the said email.		26
x)	May 11/09	Atas sends email to court with doctors' notes	On May 11, 2009, Atas emailed the court, with a copy to D&L, asking the court to provide various attached doctors notes to Justice Aston for the hearing scheduled for May 12, 2009 (Atas inadvertently stated "March 12, 2009"). Attached hereto and marked as <b>Exhibit "27"</b> to this my Affidavit is a copy of the said email.		27
y)	May 12/09 * **	Motion (adjournment #3)	Atas requested an adjournment of motion to file materials and for a motion to have a litigation guardian appointed. Stay of sale not granted but the George St. Property not to be sold pending the adjournment to May 22, 2009. Attached hereto and marked as <b>Exhibit "28"</b> to this my Affidavit is a copy of the Endorsement of Justice Aston dated May 12, 2009.		28
z)	May 22/09 **	Motion heard	Further adjournment request by Atas refused. Motion to set aside Judgment dismissed with costs fixed at \$8,000.00.	Atas requested following relief which was denied: •Endorsement of	29 30



George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			<p>Order granted that Peoples be at liberty to issue a Writ of Possession.</p> <p>Attached hereto and marked as <b>Exhibit "30"</b> to this my Affidavit is a copy of the Endorsement of Justice Aston dated May 22, 2009.</p>	<p>Justice Lederer dated March 10, 2009, be set aside</p> <ul style="list-style-type: none"> <li>• Judgment and Possession dated April 24, 2009, be set aside and stayed</li> <li>• Notice of Sale Under Mortgage dated May 8, 2008, be set aside</li> <li>• Statement of Claim be set aside</li> <li>• 626 to pay into court such amount as court determines</li> <li>• Upon payment of Mortgage, Peoples register a discharge of the Mortgage</li> <li>• An accounting of all attorned rents and return the attorned rent amounts to Atas and 626</li> <li>• Upon payment of the money owing under the Mortgage into court and discharges registered, that a trial take place as to the amount owing under the Mortgage</li> <li>• Atas be permitted to represent 626</li> </ul> <p>Grounds claimed by Atas:</p> <ul style="list-style-type: none"> <li>• Sharon Small on behalf of Peoples swore a false Affidavit in stating that the Mortgage had not been renewed and court relied on same at time Summary Judgment was granted</li> <li>• Peoples withheld the</li> </ul>	

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
				<p>documents contained in its Affidavit of Documents from the court at the time Summary Judgment was granted</p> <ul style="list-style-type: none"> <li>• Court granting Summary Judgment did not adjudicate on issue of lack of independent legal advice</li> <li>• David Bresver did not act for Atas but for Peoples only</li> <li>• Amount owing for a discharge of the Mortgage is incorrect</li> </ul> <p>Attached hereto and marked as <b>Exhibit "29"</b> to this my Affidavit is a copy of the Motion Record of Atas and 626</p>	
aa)	May 27/09 ***	Atas requests Triage Court date	<p>On May 27, 2009, at 2:05pm, Atas sent an email to the court unilaterally requesting an urgent motion for May 28 or May 29 regarding matters of capacity and the office of the Public Guardian and Trustee. The court responded to Atas by email on May 27, 2009, at 2:41pm providing her with Triage Court time for May 29, 2009, at 8:45am.</p> <p>Attached hereto and marked as <b>Exhibit "31"</b> to this my Affidavit is a copy of the said email exchange.</p>		31
bb)	May 28/09	Atas advises D&L of Triage Court date	<p>On May 28, 2009, at 4:17pm Atas forwarded the email from the court dated May 27, 2009, 2:41pm referred to above.</p> <p>Attached hereto and marked as <b>Exhibit "32"</b> to this my Affidavit is a copy of the said email.</p>		32

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
cc)	May 29/09 **	Triage court – urgent motion request by Atas	Refused. No motion before the court for appointment of litigation guardian nor any other motion or relief. Attached hereto and marked as <b>Exhibit “33”</b> to this my Affidavit is a copy of the Endorsement of Justice Aston dated May 29, 2009.		33
dd)	Jun 10/09 ** ***	Triage court - urgent motion request by Atas	Atas unilaterally and without notice to Peoples attended Triage Court and requested that her eviction order be stayed. Justice Strathy adjourned to Triage Court for June 11, 2009. Atas to advise her lawyer, Ms. Greenspoon-Soer. Attached hereto and marked as <b>Exhibit “34”</b> to this my Affidavit is a copy of the Endorsement of Justice Strathy dated June 10, 2009.		34
ee)	Jun 11/09 **	Triage Court	Atas appeared with her real estate lawyer, W. Greenspoon-Soer, who does not represent Atas in this proceeding. Justice Strathy stated that there was no motion before the court and that Atas was advised by him yesterday that she would have to file affidavit material in order for the court to consider her submissions. Justice Strathy stated that these issues have been fully explained before other judges of the court who have issued orders and that Atas’ remedies, if any, are by way of appeal. Attached hereto and marked as <b>Exhibit “35”</b> to this my Affidavit is a copy of the Endorsement of Justice Strathy dated June 11, 2009.		35
ff)	Jun 26/09 **	Appointment before Registrar to settle Order of May 22, 2009	On June 26, 2009, D&L attended before Registrar Fedson in order to have the Order of Justice Aston dated May 22, 2009, signed as Atas refused to approve the draft Order as to form and content. Attached hereto and marked as <b>Exhibit “36”</b> to this my Affidavit		36

## George St. Mortgage Action

	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			is a copy of the signed Order of Justice Aston dated May 22, 2009.		
gg)	Nov 13/09 * **	Assessment of Mortgagee's Costs (adjournment #1)	N. Canizares appeared as lawyer for Atas and 626 but advised the Assessment Officer that he no longer wished to represent Atas and 626 and asked that the assessment be adjourned to permit Atas and 626 to obtain a new lawyer. Assessment adjourned to January 12 and 13, 2010, peremptory to Atas. Attached hereto and marked as <b>Exhibit "37"</b> to this my Affidavit is a copy of the Endorsement of Assessment Officer E. Tiamiyu.		37
hh)	Jan 12/10 * **	Assessment of Mortgagee's Costs (adjournment #2)	On January 12, 2010, D&L and Atas attended the Assessment hearing before Assessment Officer E. Tiamiyu. Atas requested an adjournment for two reasons: (i) Atas was feeling ill and had suffered a concussion as a result of a fall; and (ii) Atas had scheduled a Motion for April 16, 2010, concerning the assessment. Assessment Officer E. Tiamiyu stated that the relief Atas sought in her Notice of Motion was within the proper authority of an assessment officer under section 43(2) of the <i>Mortgages Act</i> except for paragraph 4 which sought an order directing her lawyer, N. Canizares, provide copies of documents. The Assessment hearing was adjourned to May 18 and 19, 2010, peremptory to Atas pending any findings on the April 16, 2010, motion. Attached hereto and marked as <b>Exhibit "38"</b> to this my Affidavit is a copy of the Endorsement of Assessment Officer E. Tiamiyu dated January 12, 2010.		38
ii)	Apr 16/10 **	Motion by Atas	Justice Wilson dismissed the motion and ordered that the	Relief/Issues addressed:	39 40

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			<p>assessment on May 18 and 19, 2010 proceed peremptory on Atas. Justice Wilson commented that there have been numerous delays and all documents that are necessary for Atas to prepare for the assessment have been provided to her.</p> <p>Attached hereto and marked as <b>Exhibit "39"</b> to this my Affidavit is a copy of Endorsement of Justice Wilson dated April 16, 2010.</p> <p>Justice Wilson also commented in her Endorsement in the companion file Endorsement heard by her on the same day that Atas advised Justice Wilson at the beginning of the April 16, 2010 motion, that Atas wished to also bring a motion in the St. George Street Action which had only recently been served on Peoples and had not been filed with the court. Attached hereto and marked as <b>Exhibit "40"</b> to this my Affidavit is a copy of the Endorsement of Justice Wilson dated April 16, 2010, in the companion action no. 08-364585</p>	<ul style="list-style-type: none"> <li>•funds being held in D&amp;L's trust account be paid into court pending assessment of Mortgagee's costs</li> <li>•assessment of costs be sent to trial</li> <li>•Peoples provide to Atas and 626 all dockets, documents, photographs for the years 2006-2009 for the assessment of costs</li> <li>•Nicolas Canizares provide to Atas and 626 copies of correspondence</li> </ul>	
jj)	Apr 29/10	Order of Justice Wilson	<p>Atas was provided with copies of the draft Order of Justice Wilson for the motion heard April 16, 2010, but Atas refused to approve the draft Order as to form and content.</p> <p>Justice Wilson signed the Order for the motion heard April 16, 2010, and awarded Peoples \$4,000 in costs recoverable from the funds held in D&amp;L's trust account payable following the assessment of People's mortgagee costs.</p> <p>Attached hereto and marked as <b>Exhibit "41"</b> to this my Affidavit is a copy of said Order of Justice Wilson dated April 29, 2010.</p>		41 42

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			Justice Wilson instructed the parties on April 16, 2010, to make cost submissions in writing within 10 days. Justice Wilson in her Endorsement regarding costs dated May 21, 2010, made comments concerning Ms. Atas' claim to a disability and delay tactics. Attached hereto and marked as <b>Exhibit "42"</b> to this my Affidavit is a copy of the Cost Endorsement of Justice Wilson dated May 21, 2010.		
kk)	May 11/10	Atas Request for Triage Court Date	On May 11, 2010, Terrence Reiber sent an email to D&L attaching a Court Requisition to Schedule Short Motion or Application which Atas had submitted to the court on May 11, 2010, in another action. Attached hereto and marked as <b>Exhibit "43"</b> to this my Affidavit is a copy of the said email and attachment.		43
ll)	May 14/10 **	Triage Court	On May 14, 2010, Garth Dingwall from D&L attended Triage Court as D&L had concern that Atas may address issues relating to the St. George Street Action. At Triage Court on May 14, 2010, Atas requested an adjournment of People's mortgagee cost assessment which was refused. Atas claimed that she was not well and had medical appointments. Justice Himel said there was no basis to interfere with Justice Wilson's Order. Attached hereto and marked as <b>Exhibit "44"</b> to this my Affidavit is a copy of the Endorsement of Justice Himel dated May 14, 2010.		44
mm)	May 18/10 **	Cost Assessment Hearing	On May 18, 2010, Atas attended the Cost Assessment hearing before Assessment Officer A-K Fedson. Atas requested that the assessment hearing be adjourned. Between 9:30 to 11:30 am Assessment Officer A-K Fedson reviewed the adjournment request		45 46

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			and denied the adjournment. At 11:30am the Assessment Officer requested a reporter and told the parties that the assessment would proceed once the reporter arrived. Moments later, paramedics arrived and took Atas to St. Michael's Hospital. The Assessment Officer adjourned the matter for the rest of the day to permit Atas the chance to attend the next day as ordered by the court. At some point later in the day Atas obtained a copy of Assessment Officer A-K Fedson's endorsement for May 18, 2010. Assessment Officer A-K Fedson later that day saw Atas on the 7 <sup>th</sup> floor attempting to file material to be forwarded to a judge at which time A-K Fedson advised Atas that the cost assessment was reconvening 9:30am on May 19, 2009, and that her attendance was required. The above account is articulated in the Endorsement of Assessment Officer A-K Fedson in her Endorsements dated May 18, 2010, and June 20, 2011. Attached hereto and marked as Exhibits "45" and "46" to this my Affidavit are copies of the said Endorsements.		
nn)	May 19/10	Cost Assessment Hearing <i>continued</i>	The Cost Assessment hearing continued on May 19, 2010. Atas attended and told Assessment Officer A-K Fedson that she was not well and that she was going back to the hospital. The Assessment Officer advised Atas that the assessment hearing was proceeding with or without her after which Atas was again taken away by ambulance. The assessment proceeded with the decision being reserved. The aforesaid information is obtained from the Endorsements of A-K Fedson as referred to above.		
oo)	Jun 10/10	Notice of Appeal –	Served upon Peoples by Atas.	Relief Requested:	47

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
		Ontario Court of Appeal	Attached hereto and marked as <b>Exhibit "47"</b> to this my Affidavit is a copy of the said Notice of Appeal dated June 10, 2010.	<ul style="list-style-type: none"> <li>•Orders of Justice Wilson dated April 16 and 29 be set aside</li> <li>•Judgment of Justice Lederer dated March 10, 2009, be set aside</li> <li>•Order of Justice Aston dated May 22, 2010 be set aside</li> <li>•All related cost orders be set aside</li> <li>•Statement of Claim be determined by a trial</li> <li>•Extension of time to file Notice of Appeal</li> </ul>	
pp)	July 23/10  <b>NO CAPACITY</b>	PGT appointed as Litigation Guardian in <b>other proceedings</b> (not involving Peoples)	Master Muir ordered that the PGT be appointed as Litigation Guardian in five proceedings not involving Peoples Trust. Attached hereto and marked as <b>Exhibit "48"</b> to this my Affidavit is a copy of the Endorsement of Master Muir dated July 23, 2010.		48
qq)	Aug 4/10	Letter from Court of Appeal	Advising that Atas has until August 24, 2010 to perfect her appeal. Attached hereto and marked as <b>Exhibit "49"</b> to this my Affidavit is a copy of the said letter.		49
rr)	Aug 23/10 ***	Atas serves Notice of Motion for Court of Appeal	On August 23, 2010, Atas served D&L with a Notice of Motion for the Court of Appeal returnable October 22, 2010, a date which was unilaterally obtained by Atas. The motion requests an order appointing the PGT as her litigation guardian. Attached hereto and marked as <b>Exhibit "50"</b> to this my Affidavit is a copy of the said Notice of Motion.		50
ss)	Oct 22/10	Court of Appeal Motion adjourned on consent (adjournment #1)	Adjourned at request of PGT and on consent of all parties. PGT advised that it was seeking to be appointed as Atas' litigation		



George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			guardian in this action by Master Muir.		
tt)	Nov 18/10  <b>regained CAPACITY</b>	PGT advises that Atas claims to have regained her capacity	On November 18, 2010, D&L received a letter from PGT advising that Atas takes the position that she regained her capacity and no longer requires the PGT to be her litigation guardian. PGT also confirms that it does not represent Atas in the proceedings involving Peoples. Attached hereto and marked as <b>Exhibit "51"</b> to this my Affidavit is a copy of the said letter from PGT to D&L dated November 18, 2010.		51
uu)	Aug 29/11	Assessment Decision released	Certificate of Assessment of Costs issued for the full sum of \$92,213.62 as held in the trust account of Dale & Lessmann LLP with the sum of \$5,491.94 payable to Atas less any applicable interest. Attached hereto and marked as <b>Exhibit "52"</b> to this my Affidavit is a copy of the said Certificate of Assessment of Costs dated August 29, 2011 (inadvertently dated August 29, 2010).		52
vv)	Sep 1/11 * **	Motion - Court of Appeal Atas requests extension of time to perfect appeal (adjournment #1)	Justice Karakatsanis adjourned the motion to October 17, 2011, peremptory on Atas with or without counsel and advising that the PGT should be notified of the new motion date and attend. Attached hereto and marked as <b>Exhibit "53"</b> to this my Affidavit is a copy of the Endorsement of Justice Karakatsanis dated September 1, 2011.		53
ww)	Sep 8/11	Notice of Motion to Superior Court received from Atas returnable Oct 31/11 (rescheduled for January 31, 2012)	Atas seeks that: 1.the Certificate of Assessment of Costs dated August 29, 2011 be set aside; 2.the funds held in our firm's trust account be paid into court; 3.an Order that the costs be remitted to an assessment officer for reassessment; 4.alternatively, that the assessment		54

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			<p>be held in abeyance pending the appeal in the Court of Appeal;</p> <p>5.the assessment be held in abeyance pending final disposition of four unrelated court actions commenced by Atas;</p> <p>6.leave for Atas to represent the corporate defendant;</p> <p>7.order for Atas to retain counsel for the corporation defendant; and</p> <p>8.costs of the motion.</p> <p>Attached hereto and marked as <b>Exhibit "54"</b> to this my Affidavit is a copy of the said Notice of Motion.</p> <p>Atas failed to confirm this motion for October 31, 2011. Atas then took out a new motion date of January 31, 2012.</p>		
xx)	Oct 17/11 * **	Motion in Court of Appeal	<p>Atas again requested an extension of time to perfect the appeal. Atas withdraws her request for the appointment of the PGT and files a capacity assessment report of Dr. Long dated April 11, 2011. Justice Cronk determined that the involvement of the PGT was not required and provided a "one last chance" for Atas and 626 to perfect the appeal by November 30, 2011.</p> <p>Attached hereto and marked as <b>Exhibit "55"</b> to this my Affidavit is a copy of the Endorsement of Justice Cronk dated October 17, 2011.</p>	<p>Relief requested and denied:</p> <ul style="list-style-type: none"> <li>•Stay of the enforcement of the Judgment of Justice Lederer dated March 10, 2009, and the Order of Justice Aston dated May 22, 2009.</li> </ul>	55
yy)	Nov 22/11	Atas serves Notice of Motion for Court of Appeal	<p>On November 22, 2011, Atas served D&amp;L with a Notice of Motion returnable Monday, November 27, 2011. As November 27 was a Sunday and D&amp;L was aware that Atas had a case conference before Master Muir on Monday, November 28, 2011, I contacted the Court of Appeal court office on November 25,</p>		

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			2011, and I was advised that Atas was not on a motion list for November 28, 2011. On November 30, 2011, Atas served D&L with a new Notice of Motion for the Court of Appeal returnable December 14, 2011.		
zz)	Dec 14/11 **	Motion in Court of Appeal	Atas brought a further motion in the Ontario Court of Appeal requesting a further extension of time to perfect the appeal. Peoples brought a cross motion to dismiss the appeal for delay. Justice Rosenberg dismissed Atas' motion, lifted the sealing of the capacity assessment of Dr. Long dated April 11, 2011, and adjourned Peoples' cross motion to the Registrar to dismiss the appeal for delay. Attached hereto and marked as <b>Exhibit "56"</b> to this my Affidavit is a copy of the Endorsement of Justice Rosenberg dated December 14, 2011.		56
aaa)	Dec 22/11	Court of Appeal Order Dismissing Appeal for Delay	Dismissed as appeal not perfected. Atas ordered to pay costs of \$750. Attached hereto and marked as <b>Exhibit "57"</b> to this my Affidavit is a copy of the Order Dismissing Appeal for Delay dated December 22, 2011.		57
bbb)	Jan 31/12 * **	Motion to have Certificate of Assessment set aside (adjournment #1)	Atas brought motion to set aside Certificate of Assessment. Atas sought adjournment in order to retain counsel. Justice Whittaker adjourned the motion to April 2, 2012, peremptory to Atas with or without counsel. Attached hereto and marked as <b>Exhibit "58"</b> to this my Affidavit is a copy of the Endorsement of Justice Whittaker dated January 31, 2012.		58
ccc)	Feb 10/12	Court of Appeal Order Dismissing motion	On February 10, 2012, the Court of Appeal issued an Order dismissing the motion as Atas failed to serve and file a motion record and ordered Atas to pay Peoples \$750 for costs.		59

## George St. Mortgage Action

	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			Attached hereto and marked as <b>Exhibit "59"</b> to this my Affidavit is a copy of the said Order.		
ddd)	Apr 2/12 **	Motion to have Certificate of Assessment set aside	Atas' motion heard by Justice Stinson set side the Certificate of Assessment and directed that a new assessment be heard by a different Assessment Officer. Attached hereto and marked as <b>Exhibit "60"</b> to this my Affidavit is a copy of the Endorsement of Justice Stinson dated April 2, 2012.		60
eee)	April 12/12 ***	Atas schedules motion for May 23, 2012	On April 12, 2012, Atas unilaterally scheduled a motion for May 23, 2014, and sent an email to D&L advising of same. Attached hereto and marked as <b>Exhibit "61"</b> to this my Affidavit is a copy of the said email.		61
fff)	April 18/12	Notice of Motion served by Atas returnable May 23, 2012	On April 18, 2012, D&L received by fax from Atas a Notice of Motion dated April 17, 2012, returnable May 23, 2012, requesting the following: <ul style="list-style-type: none"> <li>•Order setting aside the June 30, 2009 agreement between Atas and Peoples to hold the sum of \$92,213.62 in D&amp;L's trust account;</li> <li>•Order that Peoples return to Atas the sum of \$92,213.62;</li> <li>•Order that Peoples return to Atas the additional funds of \$18,250 for attorned rents; and</li> <li>•an Order that Peoples provide a full accounting of the attorned rents</li> </ul> Attached hereto and marked as <b>Exhibit "62"</b> to this my Affidavit is a copy of the said Notice of Motion.		62
ggg)	May 18/12  Case Management	Assignment to Case Management	Regional Senior Justice Then's delegate, Justice Low, assigned this and 14 other actions involving Atas into case management with Justice Stinson appointed to case manage the actions and hear all		63

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			interlocutory matters. Attached hereto and marked as <b>Exhibit "63"</b> to this my Affidavit is a copy of the Letter from Justice Low dated May 18, 2012		
hhh)	Jul 3/12	Case Management Order	Justice Stinson as case management judge ordered that no steps be taken in the assessment process pending further order of the court. Attached hereto and marked as <b>Exhibit "64"</b> to this my Affidavit is a copy of the Order of Justice Stinson dated July 3, 2012.		64
iii)	Jul 31/12	Case Conference Atas request for urgent motion	At the Case Management Conference before Justice Stinson on July 31, 2012, Ms. Atas requested that Stinson J. hear an urgent motion staying the enforcement of the orders by People's Trust. Justice Stinson agreed to hear such a motion on that issue on September 12, 2012.		
jjj)	Aug 17/12	Notice of Motion for Sep 12/12 motion	On or about August 17, 2012, D&L received from Atas her Notice of Motion and Atas' supporting Affidavit claiming the following relief: <ul style="list-style-type: none"> <li>•Atas be permitted to represent 626</li> <li>•the Judgment of Justice Lederer dated March 10, 2009, be vacated</li> <li>•Peoples provide Atas with an accounting of all expenses and interest including legal fees related to the St. George Street Mortgage</li> <li>•the Agreement between Peoples and Atas dated June 30, 2009, to hold the sum of \$91,280.09 on account of the mortgagee's costs held in the trust account of D&amp;L be set aside</li> <li>•Peoples return to Atas the sum of \$92,213.62 currently being held in D&amp;L's trust account</li> <li>•Peoples return to Atas the additional funds of \$18,250 being attorned rents held by</li> </ul>		65

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			<p>Peoples</p> <ul style="list-style-type: none"> <li>•Peoples provide a full accounting of the attorned rents</li> <li>•Peoples provide Atas with a statement of account of the sum of \$586,071.42 released to Peoples from the sale proceeds</li> <li>•that the transaction be reopened and an accounting take place</li> <li>•reopen the account already taken and relieve Atas from payment of any sum in excess of the sum adjudged by the court to be due for principal and the cost of the mortgage loan</li> <li>•Peoples repay any such excess if same has been paid or allowed on account of Atas</li> <li>•Any security given or agreement made with respect to the money lent be set aside, revised, or altered and that if Peoples has parted with the security, Peoples be ordered to indemnify Atas</li> <li>•Peoples be deprived of its costs for its conduct</li> <li>•Peoples pay costs for its conduct</li> </ul> <p>Attached hereto and marked as <b>Exhibit "65"</b> to this my Affidavit is a copy of the said Notice of Motion.</p>		
kkk)	Aug 17/12	Letter to Justice Stinson from D&L	<p>On August 17, 2012, D&amp;L sent a letter to Justice Stinson requesting an urgent case conference to limit the scope of relief which Atas was claiming in this action and the related Wycliffe action.</p> <p>Attached hereto and marked as <b>Exhibit "66"</b> to this my Affidavit is a copy of the said letter.</p>		66
III)	Sep 4/12	Letter from Justice Stinson	<p>On September 4, 2012, Justice Stinson sent a letter to D&amp;L and Atas advising that the scope of the motion by Atas on September 12, 2012, is limited to the issue of garnishments.</p> <p>Attached hereto and marked as <b>Exhibit "67"</b> to this my Affidavit</p>		67

## George St. Mortgage Action

	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			is a copy of the said letter.		
mmm)	Sep 6/12	Letter from Atas to Justice Stinson	On September 6 or 7, 2012, Atas faxed a letter to Justice Stinson requesting that he reschedule the motions for September 12, 2012, to permit her lawyer sufficient time to prepare for the motions. Attached hereto and marked as <b>Exhibit "68"</b> to this my Affidavit is a copy of the said letter.		68
nnn)	Sep 7/12	Email from Atas to Justice Stinson	On September 7, 2012, Atas emailed Justice Stinson a further copy of her letter to him dated September 7, 2012, together with a copy of an email from Christina Wallis of D&L to Atas opposing any adjournment. Attached hereto and marked as <b>Exhibit "69"</b> to this my Affidavit is a copy of the said email.		69
ooo)	Sep 7/12	Letter from D&L to Justice Stinson	On September 7, 2012, D&L emailed a letter to Justice Stinson opposing any adjournment request which Atas had made in writing to Justice Stinson. Attached hereto and marked as <b>Exhibit "70"</b> to this my Affidavit is a copy of the said letter.		70
ppp)	Sep 7/12	Atas emails letter to Justice Stinson	On September 7, 2012, Atas sent a further letter to Justice Stinson in which she claims that Christina Wallis' letter to Justice Stinson lacks candour and is inappropriate. Attached hereto and marked as <b>Exhibit "71"</b> to this my Affidavit is a copy of the said letter.		71
qqq)	Sep 7/12	Email message from Justice Stinson	On September 7, 2012, Justice Stinson sent an email message to all parties regarding communications to the court and proper procedure for requesting an adjournment. Attached hereto and marked as <b>Exhibit "72"</b> to this my Affidavit is a copy of the said email message from Justice Stinson.		72
rrr)	Sep 12/12 * **	Motion by Atas requesting extensive relief	Motion adjourned by Justice Stinson to a date that may be fixed by Justice Stinson as case		73

George St. Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			<p>management judge. Atas and 626 ordered to pay Peoples costs of \$6,000 within 30 days and to pay the Motions Court Office the requisite motion filing fee by no later than October 10, 2012.</p> <p>Justice Stinson commented in his Endorsement that the Judgment in the St. George Street Action is fully satisfied and the only outstanding issue is the assessment of the mortgagee's costs, that there is no judgment enforcement proceedings against Atas in this action, and that the motion relief requested by Atas was not urgent and may be unnecessary once Atas reviews the detailed affidavit material filed by Peoples.</p> <p>Attached hereto and marked as <b>Exhibit "73"</b> to this my Affidavit is a copy of the Endorsement and Order Justice Stinson dated September 25, 2012, and the related Order dated September 12, 2012.</p>		
sss)	Sep 14/12	Email to Atas from D&L regarding withdrawal of Writs and Garnishments	On September 14, 2012, D&L sent to Atas by email notification that all Writs of Execution and Notices of Garnishment had been withdrawn together with copies of the letters to the Sheriffs and Notices of Termination of Garnishment. Attached hereto and marked as <b>Exhibit "74"</b> to this my Affidavit is a copy of the said email and enclosures.		74
ttt)	current	Current Status	At the case management conference on July 21, 2014, Justice Stinson directed that all matters being case managed be stayed pending the outcome of the s. 140 vexatious litigant application.		

\* Requests by Atas for adjournment where court attendance required (totals 11)

\*\* Court Attendances not including case management conferences (totals 23)

\*\*\* Court dates unilaterally obtained by Atas (totals 7)



### **Current Status**

8. The only item which remains outstanding in the George St. Mortgage Action is the assessment of Peoples' mortgagee costs. D&L continues to hold the sum of \$92,213.62 in its trust account representing the costs agreed to be held until the costs were assessed by the court or the parties agreed otherwise.

### **Sale of George St. Property by Respondents**

9. Atas was at the time a registered real estate agent. She showed the George St. Property to potential purchasers.

10. On or about March 4, 2009, Peoples received a letter from its real estate broker recommending that the George St. Property be listed for sale at \$599,000.00 on an "as is basis". The real estate broker advised that the general overall condition of the George St. Property is very poor and the entire property needs upgrading. Additionally, the George St. Property contained a lot of garbage debris scattered throughout staircases and hallways that posed health and fire hazard issues. Attached hereto and marked as **Exhibit "75"** to this my Affidavit is a copy of the said letter dated March 4, 2009.

11. Peoples obtained an appraisal for the George St. Property dated March 23, 2009, indicating that the value of the George St. Property was \$730,000. Attached hereto and marked as **Exhibit "76"** to this my Affidavit is a copy of the said Appraisal dated March 23, 2009.

12. A further appraisal of the George St. Property was obtained by Peoples on May 15, 2009 which indicated a value of \$635,000.

13. On or about April 28, 2009, Peoples entered into a Listing Agreement for the George St. Property with a listing price of \$730,000. Attached hereto and marked as **Exhibit "77"** to this my Affidavit is a copy of the said Listing Agreement.

14. On or about May 19, 2009, Peoples entered into an Agreement of Purchase and Sale under its power of sale to sell the George St. Property for \$788,000 with a closing of June 30, 2009. Attached hereto and marked as **Exhibit "78"** to this my Affidavit is a copy of the said Agreement of Purchase and Sale dated May 19, 2009.

15. Prior to Peoples proceeding with its sale under power of sale, *Atas and 626 sold the George St. Property* and paid out the George Street Mortgage in full.

16. In June, 2009, during the sale of the George St. Property, Atas and 626 were represented by lawyers, Nicolas Canizares and Michael Mitchell. Nicolas Canizares continued to represent Atas and 626 until April 16, 2010, when he removed himself as lawyer of record.

(a) Both Nicolas Canizares and Michael Mitchell have subsequently been sued by the Respondents claiming \$2,500,000. Attached hereto and marked as **Exhibit "79"** to this my Affidavit is a copy of the Amended Statement of Claim and Statement of Defence in action number 10-411421.

(b) Atas has commenced an additional action against Michael claiming \$2,500,000. Attached hereto and marked as **Exhibit "80"** to this my Affidavit is a copy of the Amended Statement of Claim in action 11-429176.

(c) Further the lawyer, David Bresver and his law firm, acting for Peoples in the mortgage transaction to the Respondents have been sued by the Respondents

for \$2,500,000. Attached hereto and marked as **Exhibit "81"** to this my Affidavit is a copy of the Amended Statement of Claim and Statement of Defence in action number 10-411424.

17. On or about June 5, 2009, 626 entered into an Agreement of Purchase and Sale to sell the George St. Property to Nutan Chahal for \$800,000 with a closing date of June 29, 2009. This sale by 626 did in fact close and Peoples' George Street Mortgage was paid in full and discharged. A copy of the said Agreement of Purchase and Sale dated June 5, 2009 has been attached and marked as **Exhibit "82"** to this affidavit.

(a) The Respondents subsequently commenced an action against their purchasers, Nutan and Krishan Chahal claiming \$2,500,000. Attached hereto and marked as **Exhibit "83"** to this my Affidavit is a copy of the Amended Statement of Claim and Amended Statement of Defence in action number 11-429151.

18. On June 22, 2009, Peoples was advised by the lawyers for Atas and 626 that Atas and 626 had an Agreement of Purchase and Sale for the George St. Property for more money than Peoples' sale price.

19. The sale of the George St. Property by Atas and 626 resulted in a surplus of funds. Atas and 626 objected to the expenses claimed by Peoples for mortgage enforcement and it was agreed between Peoples and Atas and 626 that Dale & Lessmann LLP would hold the sum of \$91,280.09 in trust on account of Peoples' costs in enforcing the George Street Mortgage and to pay those monies out only upon agreement between Peoples and Atas and 626 or as ordered pursuant to an Assessment Certificate of the court or as otherwise ordered by the court.

20. On June 30, 2009, Peoples received the sum of \$677,351.51 thereby redeeming the George Street Mortgage. Accordingly the sum of \$586,071.42 was paid to Peoples on account of the George Street Mortgage and the sum of \$91,280.09 was held back in the trust account of Dale & Lessmann LLP on account of Peoples' expenses relating to enforcement of the George Street Mortgage.

21. At Atas and 626's request, Peoples obtained an appointment for the assessment of its costs pursuant to the *Mortgages Act* scheduled for November 13, 2009. A copy of the Notice of Appointment was served upon Atas and 626's lawyer, Nicolas Canizares, on August 12, 2009. Attached hereto and marked as **Exhibit "84"** to this my Affidavit is a copy of a letter to Mr. Canizares serving a copy of the Notice of Appointment for November 13, 2009.

***Possession and Eviction – Atas***

22. In or about February, 2009, Peoples attorned the rents for the George St. Property and took possession of the George St. Property with the exception of the unit in which Atas resided. Attached hereto and marked as **Exhibit "85"** to this my Affidavit is a copy of the Notice to Tenants.

23. Peoples as mortgagee in possession of part of the George St. Property, received complaints from the tenants regarding the condition of the George St. Property including health and fire code violations, and threats to the tenants by Atas. Attached hereto and marked as **Exhibit "86"** to this my Affidavit is a copy of an email from the third floor tenants of the George St. Property detailing their various concerns.

24. Peoples' agent property manager attended to various repairs of the premises and experienced various problems with Atas interfering with repairs and being verbally abusive.

Attached hereto and marked as **Exhibit "87"** to this my Affidavit is a copy of an email dated February 13, 2009, from Peoples' agent property manager to our office.

25. The Judgment dated March 10, 2009, of Justice Lederer at Exhibit "10" herein ordered that Peoples be provided with possession of the George St. Property.

26. On May 22, 2009, Justice Aston ordered that Peoples be at liberty to issue a writ of possession against the George St. Property. Attached hereto and marked as **Exhibit "88"** to this my Affidavit is a copy of the Order of Justice Aston dated May 22, 2009.

27. On May 22, 2009, a Writ of Possession was issued by the court. Attached hereto and marked as **Exhibit "89"** to this my Affidavit is a copy of the said Writ of Possession.

28. Between March 10, 2009, and June 11, 2009, Atas on eight (8) different occasions brought motions before the court or attended triage court in an attempt to prevent Peoples from taking possession of the George St. Property and proceeding with a sale. Further details of these attempts are set out in paragraph 7 above.

29. When Peoples took possession of part of the George St. Property, there existed Ontario Fire Code violations. Attached hereto and marked as **Exhibit "90"** to this my Affidavit is a copy of a Notice of Violation dated November 27, 2007.

30. In April and May, 2009, Peoples' agent property manager attended to make necessary repairs to the George St. Property to deal with Fire Code violations.

***Personal Property – Atas***

31. On or about April 2, 2009, Peoples' agent property manager requested that Atas remove her personal furniture and housewares from the common entrance of the George St. Property by April 15, 2009, as the items were in violation of the Fire Code. Atas advised that the items did not constitute a fire hazard and would only remove the items if ordered by the Fire Department. Atas insisted that items in the hallways contained new rugs, furniture, new personal belongings, important business documents and fireplace inserts. Attached hereto and marked as **Exhibit "91"** to this my Affidavit is a copy of the letter from Peoples' agent dated April 2, 2009, and subsequent email correspondence with Atas of April 12, 13, and 14, 2009.

32. On or about May 13, 2009, our firm sent a letter to Atas and 626 enclosing a copy of the Notice of Violation from Toronto Fire Services. The letter advises that Atas and 626 failed to remove items from the common areas of the George St. Property by April 15, 2009, as requested. The letter provides Atas and 626 with a further opportunity to remove the personal belongings and combustible materials from the stairways and exits by May 20, 2009, failing which the items will be placed in a storage facility without further notice. Attached hereto and marked as **Exhibit "92"** to this my Affidavit is a copy of the said letter dated May 13, 2009.

33. On or about May 22, 2009, our firm sent a letter to Atas and 626 advising that they had failed to remove belongings by May 20, 2009, as requested from the common areas. Peoples advised Atas and 626 that the items would be removed to a storage facility and Atas and 626 would be advised of the location and information on access. Attached hereto and marked as **Exhibit "93"** to this my Affidavit is a copy of the said letter dated May 22, 2009.

34. On or about June 3, 2009, our firm sent a letter to Atas and 626 advising that the items in the stairways and common areas of the George St. Property had been removed on June 2, 2009, to a public secure storage facility. Full information was provided to Atas and 626 as to the location and access to the storage facility. Atas and 626 were advised that they had 60 days in which to take over the rental agreement for the storage facility failing which the property would be considered abandoned. Attached hereto and marked as **Exhibit "94"** to this my Affidavit is a copy of the said letter dated June 3, 2009.

35. On or about June 5, 2009, our firm sent a letter to Atas and 626 listing the items that were moved from the stairways and common areas of the George St. Property to the storage facility. Attached hereto and marked as **Exhibit "95"** to this my Affidavit is a copy of the said letter dated June 5, 2009.

#### **Removal of Contents from Atas' Unit**

36. On or about April 30, 2009, Atas and 626 were personally served with a Notice Demanding Possession requiring that Atas and 626 vacate the George St. Property by May 11, 2009. Attached hereto and marked as **Exhibit "96"** to this my Affidavit is a copy of the Notice Demanding Possession together with proof of service.

37. On May 22, 2009, an Order of Justice Aston was obtained ordering that Peoples be at liberty to issue a Writ of Possession. The Order of Justice Aston dated May 22, 2009 has been attached as Exhibit 88 to this affidavit.

38. On May 22, 2009, a Writ of Possession was issued by the court. A copy of the Writ of Possession has been attached and marked as Exhibit 89 to this affidavit.

39. On May 24, 2009, Atas advised our firm by email that she had entered into an Agreement of Purchase and Sale. She did not provide us with a copy of the Agreement nor any further details.

40. On or about May 26, 2009, our firm sent a letter to Atas and 626's lawyer, Terence Reiber, advising that should Atas and 626's sale of the George St. Property close prior to Peoples' sale under power of sale scheduled for June 30, 2009, the George Street Mortgage would not be discharged unless it was paid in full. Attached hereto and marked as **Exhibit "97"** to this my Affidavit is a copy of the said letter dated May 26, 2009.

41. On or about June 8, 2009, our firm received a letter from Wendy Greenspoon-Soer who advised that she had been retained to act for Atas in connection with Peoples' enforcement of the George Street Mortgage. Ms. Greenspoon-Soer advises that Atas has two offers on the George St. Property and anticipates entering into a binding agreement the following day. She requests that Peoples provide Atas with an opportunity to complete a sale of the George St. Property and that Peoples notify the Sheriff and delay eviction proceedings. Attached hereto and marked as **Exhibit "98"** to this my Affidavit is a copy of the said letter dated June 8, 2009.

42. By letter dated June 8, 2009, our firm advised Ms. Greenspoon-Soer that Peoples' instructions are to proceed with the enforcement of the George Street Mortgage without further delay until the said mortgage is paid in full. Attached hereto and marked as **Exhibit "99"** to this my Affidavit is a copy of the said letter dated June 8, 2009.

43. On or about June 10, 2009, our firm received a letter from Ms. Greenspoon-Soer enclosing a copy of the Agreement of Purchase and Sale which 626 entered into for \$800,000



with a closing date of June 29, 2009, subsequently moved to June 26, 2009. Ms. Greenspoon-Soer advised that she had a conflict of interest and would not be able to continue to act for Atas. She again requests that Peoples agree to stay enforcement of its mortgage to permit Atas' sale to proceed. Attached hereto and marked as **Exhibit "100"** to this my Affidavit is a copy of the said letter dated June 10, 2009 enclosing a copy of the Agreement of Purchase and Sale.

44. On June 11, 2009, the Sheriff attended at the George St. Property and completed the eviction of Atas.

45. On or about June 12, 2009, Peoples sent a letter to Atas and 626 advising that the Sheriff had enforced the Writ of Possession on June 11, 2009. The letter provided Atas and 626 until June 28, 2009, to make arrangements to remove the contents from their unit on the George St. Property.

46. On June 26, 2009, our firm sent a letter to Atas and 626's lawyer, Nicolas Canizares, confirming that we had been advised that Atas and 626's sale of the George St. Property had been amended to close on June 29, 2009. Our firm advised Nicolas Canizares that Atas was to remove the contents from her unit at the George St. Property by June 29, 2009. Attached hereto and marked as **Exhibit "101"** to this my Affidavit is a copy of the said letter dated June 26, 2009.

47. Atas and 626 proceeded to sell the George St. Property and pay out the George Street Mortgage prior to Peoples proceeding to close its sale under power of sale.

48. By letter dated July 3, 2009, our firm sent a letter to Atas and 626's lawyer, Nicolas Canizares, advising of all the notices sent by our firm to Atas and 626 regarding the removal of contents from the George St. Property and the placement of the same in a secure storage facility. Mr. Canizares was advised that Atas and 626 were provided with notice to assume the lease for the storage facility by July 30, 2009, failing which the contents would be considered abandoned. Attached hereto and marked as **Exhibit "102"** to this my Affidavit is a copy of the said letter dated July 3, 2009.

49. In an email from Atas to her lawyer, Nicolas Canizares, dated July 11, 2009, Atas claimed that the Peoples' property manager would not return her calls and that she did not know where her belongings were located. Further email communications were made between our firm and Mr. Canizares regarding the contents. Attached hereto and marked as **Exhibit "103"** to this my Affidavit is a copy of the said email dated July 11, 2009, and the subsequent emails between our firm and Mr. Canizares.

50. On July 21 to July 30, 2009, several emails were exchanged between Atas, her lawyer, and our firm regarding her belongings in the storage facility. Attached hereto and marked as **Exhibit "104"** to this my Affidavit is a copy of the said emails.

51. By letter dated August 6, 2009, from our firm to Nicolas Canizares, Atas was provided with a further extension of time to assume the lease for the storage facility. Attached hereto and marked as **Exhibit "105"** to this my Affidavit is a copy of the said letter dated August 6, 2009.

52. After many further delays by Atas to assume the lease of the storage facility, she finally arranged to do so on August 30, 2009. Atas arranged to assume the lease of the storage facility for September 1, 2009.

53. On or about April 15, 2014, I was reading the Metro newspaper and noticed a notice posted therein by All Canadian Self-Storage advising of an online auction to sell the contents of a storage unit belonging to Atas. I brought this to the attention of Christina Wallis of Dale & Lessmann LLP who proceeded to send a copy of the said notice to Atas' lawyer, Dr. M. Hamalengwa. Attached hereto and marked as **Exhibit "106"** to this my Affidavit is a copy of the email to Dr. M. Hamalengwa dated April 15, 2014, attaching a copy of the said Notice.

#### **Attornment of Rents**

54. On May 17, 2006, 626 granted to Peoples an Assignment of Rents and on May 17, 2006, a Notice of Assignment of Rents was registered on title to the Property. Attached hereto and marked as **Exhibit "107"** to this my Affidavit is a copy of the said Notice of Assignment of Rents.

55. On or about February 11, 2009, Peoples served a Notice of Attornment of Rents upon the tenants of the Property in accordance with Peoples' rights under the terms of the Mortgage and the Assignment of Rents Agreement. Peoples' property manager collected rents in the amount of \$18,250 from the tenants from March 1, 2009, to the date the property was sold on June 30, 2009.

56. Peoples' property manager collected five months of rent cheques from the 3 rental units of the Property during March 1, 2009, to June 30, 2009, as follows:

Rental Unit	Rent Collected	Total Rent Collected
Lower Level	\$650 x 5 months	\$3,250
Main Floor	\$1,500 x 5 months	\$7,500
Third Floor	\$1,500 x 5 months	\$7,500
Total Rent Collected		\$18,250

Attached hereto and marked as **Exhibit "108"** to this my Affidavit are copies of the Lease Agreements with the tenants.

57. Peoples' property manager applied the revenue of \$18,250 received from the said collected rents to its expenses in operating, repairing, and maintaining the property. Attached hereto and marked as **Exhibit "109"** to this my Affidavit is a copy of Peoples' property manager's Operating Statement to June 30, 2009, showing rents collect of \$18,250 and how it was applied to the property manager's operating costs for the Property.

58. Peoples has provided a Bill of Costs and full document disclosure, including a 2-volume Disclosure Brief, to the Respondents for the purposes of an assessment of its costs under s.43(2) of the *Mortgages Act* including the attorned rents and the application of those collected rent monies to Peoples' expenses incurred in enforcing the Mortgage.

59. The discharge statements provided to the Respondents and their lawyers on June 16 and June 25, 2009, show a credit for the attorned rents. Attached hereto and marked as **Exhibit "110"** to this my Affidavit are copies of the said discharge statements.

**Monies Held in D&L's Trust Account – Mortgagee's Costs**

60. As referred to previously in this my Affidavit, D&L deposited the sum of \$91,280.09 into its trust account from the monies received from Atas' lawyer when she sold the George St. Property. The sum represented the Mortgagee's costs which Atas contested.

61. At the time of Atas' sale of the George St. Property, Peoples provided a final discharge statement to Atas' lawyers which indicated that the sum of \$7,000 was being held back for anticipated expenses for storage and clean-up costs not yet billed by Peoples' property manager. Attached hereto and marked as **Exhibit "111"** to this my Affidavit is a copy of the June, 2009, correspondence containing the said discharge statements.

62. On or about April 6, 2010, Peoples' property manager forwarded the balance of the sum held back for its costs in the sum of \$933.53 to Dale & Lessmann LLP's trust account. Attached hereto and marked as **Exhibit "112"** to this my Affidavit is a copy of the letter from Taft Forward Property Management Group and a copy of the cheque in the sum of \$933.53.

63. The said sums of \$91,280.09 and \$933.53 for a total of \$92,213.62 were deposited to the trust account of Peoples' lawyers, Dale & Lessmann LLP, in accordance with Peoples' undertaking to hold the costs in its lawyers' trust account pending an assessment of Peoples' costs.

64. Dale & Lessmann LLP continues to hold the sum of \$92,213.62 in its trust account and has at no time used any of those funds for any purpose whatsoever. Attached hereto and marked as **Exhibit "113"** to this my Affidavit is a copy of the Trust Account Ledger for Dale & Lessmann LLP showing the said trust deposits and the trust balance.

65. The said trust funds in the sum of \$92,213.62 have been held in a non-interest bearing trust account since June 30, 2009, because Dale & Lessmann LLP is required by law to annually issue T5 forms to the recipients of interest from its trust account. Peoples' lawyers cannot hold the trust monies in an interest-bearing account because it is unknown what amounts will be disbursed to Peoples and to the Respondents prior to an assessment of costs.

### **Atas Continues to Dispute Trust Funds and Attornment Rents**

66. To date, Atas continues to dispute that D&L should hold Peoples' mortgagee costs in its trust account and that the amount being held should include the sum of \$18,500 for attorned rents to which Atas claims entitlement.

67. The following are instances where Atas has brought these two issues before the court and has been denied relief. At the motion on September 12, 2012, Justice Stinson in his endorsement specifically denied any such relief and stated that the issue was *res judicata*.

<b>Motion Date</b>	<b>Paragraph Reference to where details are set out in this my Affidavit</b>
May 22, 2009	7(z)
April 16, 2010	7(ii)
April 2, 2012	7(ddd)
Sep 12, 2012	7(rrr)

68. In addition to the above, Atas has relentlessly emailed D&L regarding the trust monies and the attorned rents. At times Atas has made allegations that D&L has concealed funds including attorned rents and that their conduct is fraudulent and criminal. Atas wrote in her emails to Christina Wallis that she is "retarded", that "You need to hand in your licence as I truly think you are ethically and intellectually challenged". As well, many of the emails were

also sent to Peoples' head office directly by Atas despite our requests that she not do so. The following are some examples of the email correspondence in this regard:

Date(s) of Email Chain	Exhibit No.
April 1, 7 to 19, 2012	<b>114</b>
May 10 and 11, 2012	<b>115</b>
May 5, 2012	<b>116</b>
June 14, 2012	<b>117</b>
August 20, 2012	<b>118</b>

69. Dale & Lessmann LLP continues to hold in trust the sum of \$92,213.62 on account of Peoples' costs and expenses relating to the George Street Mortgage. Peoples continues to wait for the first opportunity to have its mortgagee costs assessed by the court in order that these funds may be disbursed. However, currently Justice Stinson has stayed all proceedings, including a further cost assessment hearing in the George St. Mortgage Action, until the court hears the vexatious litigant application.

## **B: GEORGE STREET ACTION – ATAS, 626 V. PEOPLES**

### **Pleadings**

70. On September 29, 2010, the Respondents commenced action 10-411415 against Peoples claiming the sum of \$2,500,000 for damages and punitive damages for mismanagement of property alleging misrepresentation, discrimination, unlawful conversion, improvident value, and unjust enrichment (the “**George Street Action**”).

71. Peoples was served with the aforementioned Statement of Claim by Atas on October 31, 2011. Attached hereto and marked as **Exhibit “119”** to this my Affidavit is a copy of the Statement of Claim.

72. Atas alleges in the Statement of Claim that Peoples had an obsessive desire to destroy Atas despite having knowledge of her disability. Further, Atas claims that Peoples, as mortgagee in possession, encouraged their property manager to have tenants make false or exaggerated complaints about Atas and 626 to place her into criminal jeopardy and exacerbate her psychological problems.

73. These statements are bald allegations and without foundation. I believe that they are vexatious and an abuse of the process of the court as well.

74. Atas and 626 have also claimed that Peoples as mortgagee in possession mismanaged rent, caused physical damage to the George St. Property, and claimed repairs that had not been completed.

### **Motion to Strike**

75. After numerous attempts to arrange a mutually convenient motion date with the Respondents, Peoples proceeded to obtain the date of January 19, 2012, for the return of a motion by Peoples. On November 23, 2011, Peoples served the Respondents with a Notice of Motion seeking various relief including the striking of the Respondents' Statement of Claim. The said Notice of Motion was filed with the court on November 24, 2011. Attached hereto and marked as **Exhibit "120"** to this my Affidavit is a copy of the said Notice of Motion and proof of service.

76. On December 29, 2011, our firm received an email from Atas advising that she had taken out an appointment in motions scheduling court for January 11, 2012, at 9:00 a.m. in regards to this action and other actions. Atas scheduled this date without any consultation or



notice to our firm. Attached hereto and marked as **Exhibit "121"** to this my Affidavit is a copy of the said email from Atas.

### **Noting in Default**

77. On December 30, 2011, the Respondents, without prior notice, proceeded to note Peoples in default in this action and the related Wycliffe Action commenced by Atas as set out later in this Affidavit. The Respondents noted Peoples in default despite the fact that they were aware that a motion by Peoples was pending.

78. I am advised by Christina Wallis, a partner lawyer at our firm, that she attended motions scheduling court on January 11, 2012, before Justice Low. At that time Atas advised the court that her request for a motion date was no longer necessary as she had noted Peoples in default. Atas requested that Peoples' January 19, 2012, motion be adjourned. Justice Low advised Atas that the noting in default of Peoples with the knowledge that a motion is pending is improper. No adjournment was granted. Attached hereto and marked as **Exhibit "122"** to this my Affidavit is a copy of the Endorsement of Justice Low dated January 11, 2012.

### **Motion – January 19, 2012**

79. On January 19, 2012, Justice McEwen adjourned Peoples' motion ordering, *inter alia*, that Peoples bring a motion to set aside the noting of default as soon as possible. Attached hereto and marked as **Exhibit "123"** to this my Affidavit is a copy of the Endorsement of Justice McEwen dated January 19, 2012.

80. The parties attended before Justice McEwen on March 7, 2012, to settle the Order of January 19, 2012, as Atas refused to approve the draft Order as to form and content. Attached

hereto and marked as **Exhibit “124”** to this my Affidavit is a copy of the Endorsement of Justice McEwen dated March 7, 2012.

### **Scheduling Motion to Set Aside Noting in Default**

81. Atas was uncooperative in scheduling the motions to set aside the notings in default. Attached hereto and marked as **Exhibit “125”** to this my Affidavit is a copy of emails exchanged between our firm and Atas in an attempt to schedule the motion.

82. A motion was ultimately scheduled for March 19, 2012.

### **Motion – March 19, 2012**

83. Justice Hainey heard Peoples’ motion on March 19, 2012, seeking an order to set aside the notings in default. Atas opposed the motion stating that Peoples’ affidavit in support of the motion is deficient, there is no evidence that Peoples had an intention to defend, and that Peoples’ behaviour and delay do not support an Order.

84. Justice Hainey proceeded to grant an Order to Peoples setting aside the notings in default in this action and the Wycliffe Action commenced by Atas as set out later in this Affidavit. Justice Hainey also granted the following Orders:

- (a) 626 shall be represented by a lawyer; and
- (b) costs of \$1,500 per motion for a total of \$3,000 for both motions.

### **Current Status**

85. On April 10, 2012, Peoples served its Statement of Defence upon the Respondents. Attached hereto and marked as **Exhibit "126"** to this my Affidavit is a copy of the said Statement of Defence.

86. As of May 18, 2012, this case was assigned to Case Management Judge Stinson.

87. Despite Justice Stinson instructing that no proceeding under case management is to proceed, on April 15, 2014, Atas prepared and served Requests to Inspect Documents in this action, and action 11-429180, even though she was at the time represented by her lawyer, Dr. M. Hamalengwa. Attached hereto and marked as **Exhibit "127"** to this my Affidavit are copies of the said Requests to Inspect Documents.

88. D&L on behalf of Peoples provided a response to the Requests to Inspect Documents. Attached hereto and marked as **Exhibit "128"** to this my Affidavit are a copy of the said Responses.

89. The request for documents was based on documents referred to in Peoples' Statement of Defence. Many of the documents requested were not referred to in the Statement of Defence. All of the documents requested had been provided to Atas at some time in the past in the George St. Mortgage Action as they were included in disclosure briefs for Assessment of Costs, the Affidavit of Documents, and various exhibits to Affidavits in support of court motions.

90. D&L on behalf of Peoples provided Atas' lawyer with a date and time to inspect the documents that we indicated were available for inspection. An alternate inspection date was

provided to Atas' lawyer at his request. Atas' lawyer did not intend to inspect the documents but instead insisted on D&L providing Atas with photocopies or scanned pdf copies of the documents. D&L advised Atas' lawyer that we would be willing to provide scanned copies of any documents which were already scanned in our system but for any other documents, we would require that Atas pay the photocopying or scanning expense.

91. In the past Atas has bombarded our offices with requests for copies of documents but has been unwilling to pay any photocopying costs. To date, Atas has never paid our office for any photocopying or scanning costs.

92. Atas refused to pay the photocopying or scanning costs for any of the documents in the Requests to Inspect. I am advised by Christina Wallis and verily believe that Atas raised the issue with Justice Stinson on a couple of occasions at the case management conferences to which Justice Stinson advised that D&L's request for such costs were reasonable. Atas never pursued this further.

93. On February 28, 2014, the court issued an Order dismissing the action for delay.

94. At the case management conferences, Justice Stinson advised that he would deal with the setting aside of the administrative orders dismissing various actions but that Atas' lawyer would be required to provide the proper materials to him in order to do so. Atas herself drafted Orders setting aside various dismissals; however, the form and content of the draft Orders and Consents were not proper or acceptable to Peoples and other parties in other actions. Despite numerous directions provided to Atas and her counsel regarding the preparation of draft consent orders, Atas and her counsel have not complied.

## Ontario Human Rights Claim

95. On August 4, 2011, Atas filed separate complaints with the Ontario Human Rights Tribunal (“OHRT”) against Peoples, Dale & Lessmann LLP, Stikeman Elliot, and the Law Society of Upper Canada. I have only seen the complaints filed against Peoples and Dale & Lessmann LLP. Those complaints are for discrimination in the supply of services based on disability. Atas claims that Peoples and Dale & Lessmann LLP failed to accommodate her disability by failing to bring a motion to appoint the PGT and claims monetary compensation in the sum of \$3,000,000. Attached hereto and marked as **Exhibits “129” and “130”** to this my Affidavit are copies of the Complaints filed with OHRT against Peoples and Dale & Lessmann LLP.

96. With the OHRT claim, Dale & Lessmann LLP and Peoples were provided with a Case Assessment Direction for the OHRT to obtain direction with respect to the potential issue of Atas’ legal capacity to proceed with the OHRT applications. The Case Assessment Direction provides that the PGT is to respond by December 20, 2011, with the next step being written submissions on the issue from Atas. Attached hereto and marked as **Exhibit “131”** to this my Affidavit is a copy of the Case Assessment Direction.

97. By letters from the PGT dated December 13 and 20, 2011, the PGT has informed the OHRT that the issue of Atas’ capacity has been raised in several civil proceedings before the Small Claims Court, the Superior Court of Justice, and the Ontario Court of Appeal. The PGT informs that it was appointed in July, 2010, as Atas’ litigation guardian on five (5) actions unrelated to Peoples. The PGT also informs that Atas claims that she is no longer a party under a disability and wishes that the PGT be removed. The PGT advises that it will *not be seeking to represent Atas in any claims before the OHRT*. Attached hereto and marked as

**Exhibit "132"** to this my Affidavit are copies of the said letters from the PGT dated December 13 and 20, 2011.

98. Attached to Atas' OHRT complaints she has attached a Notice of Action issued in Toronto on June 27, 2011, Superior Court file no. CV-11-429572, Atas and 626 v. Dale & Lessmann LLP, Christina Wallis, Matthew Cameron, and Garth Dingwall. Atas and 626 claim damages in the sum of \$2,000,000 for negligence, misrepresentation, and negligent misrepresentation arising from the George St. Mortgage Action. Attached hereto and marked as **Exhibit "133"** to this my Affidavit is a copy of the said Notice of Action.

99. On or about December 19, 2011, our firm's agent searched the court file for action no. CV-11-429572. In the court file is a Statement of Claim dated July 20, 2011. The said Statement of Claim has not been served upon the named defendants. Attached hereto and marked as **Exhibit "134"** to this my Affidavit is a copy of the said Statement of Claim dated July 20, 2011.

#### **Further Action Commenced by Atas and 626**

100. On June 27, 2014, Atas and 626 commenced an action against Peoples, David Bresver and his law firm, Michael Mitchell, Nicolas Canizares, Krishan Chahal, and Nutal Chahal claiming \$40,000,000. D&L has been provided with the Notice of Action, in action no. 14-507421. However, Justice Stinson has directed Atas not to serve the Statement of Claim in this action as all proceedings being case managed are stayed pending the determination of the vexatious litigant application. Attached hereto and marked as **Exhibit "135"** to this my Affidavit is a copy of the said Notice of Action.

## C: WYCLIFFE MORTGAGE ACTION – PEOPLES V. ATAS

### Background

101. On October 21, 2008, Peoples issued a Statement of Claim against Atas in Action No. CV-08-00364585 for payment under the terms of the mortgage and for possession of the property municipally known as 12 Wycliffe Avenue (the **“Wycliffe Property”**). Attached hereto and marked as **Exhibit “136”** to this my Affidavit is a copy of the said Statement of Claim (the **“Wycliffe Mortgage Action”**).

102. The background details giving rise to the Wycliffe Mortgage Action and the subsequent sale of the Wycliffe Property by Atas are as follows:

- (a) The Wycliffe Property is a single family home rented by Atas to tenants. At all materials times Atas did not reside at the Wycliffe Property.
- (b) Atas entered into a Mortgage dated August 1, 2005, made between herself and Peoples Trust Company and registered under instrument number WE320935 securing a sum of \$165,000.00 and interest on that sum at the rate of 6.5% percent per year (the **“Wycliffe Mortgage”**).
- (c) The mortgage matured on August 1, 2008. The mortgagee made written demand for payment from Atas on September 15, 2008.
- (d) Peoples obtained Judgment on May 11, 2009, for possession of the Wycliffe Property and for payment of the sum of \$164,726.95 plus the sum of \$10,000.00 for costs (the **“Wycliffe Judgment”**). Attached hereto and marked

as **Exhibit "137"** to this my Affidavit is a copy of the Wycliffe Judgment dated May 11, 2009.

- (e) After Peoples obtained the Wycliffe Judgment, during the period from June to August, 2009, Peoples engaged in efforts to sell the Wycliffe Property under power of sale. In or about this same period, Atas was engaged in efforts to arrange for the sale of the Wycliffe Property in order to redeem the Wycliffe Mortgage. At the time, Atas was a registered real estate agent. Atas entered into an Agreement of Purchase and Sale to herself sell the Property. The sale proceeds from that sale were **insufficient to redeem** the Mortgage. Peoples agreed with Atas to discharge the Mortgage on the condition that Atas agreed that Peoples could proceed with enforcement proceedings on the Judgment to collect on the deficiency that resulted from the sale. Details of the said agreement are as follows:

- (i) On or about August 17, 2009, Peoples' lawyers sent a letter to Mitchell which enclosed a discharge statement, providing the amount required to payout the Mortgage as of August 18, 2009. This discharge statement was provided at this time due to the fact that Atas' proposed sale of the Property was scheduled to close on August 18, 2009. Attached hereto and marked as **Exhibit "138"** to this my Affidavit is a copy of the letter dated August 17, 2009, sent to Mitchell.
- (ii) Following the August 17, 2009, letter to Mitchell, Peoples was informed by Mitchell that the closing date of Atas' sale had been



postponed. Additionally, Mitchell advised that the funds payable to Peoples upon the closing of the proposed sale had increased to \$177,069.22. Attached hereto and marked as **Exhibit "139"** to this my Affidavit is a copy of a letter dated August 19, 2009, received from Mitchell setting out the facts cited within this paragraph.

(iii) On or about August 19, 2009, Peoples' lawyers sent a letter to Mitchell advising that Peoples was prepared to discharge the Mortgage from title without prejudice to its remaining remedies to collect on the deficiency. Peoples advised that it would require a signed Acknowledgement and Agreement ("**Acknowledgement**") together with a direction ("**Direction**") from Atas. These documents were attached to the letter. This letter also confirmed that the proceeds of Atas' sale transaction would be in the amount of \$177,069.22 and would be payable to "Dale & Lessmann LLP, in Trust". The receipt of that sum by Peoples' counsel was a condition precedent to the discharge of the Mortgage. Attached hereto and marked as **Exhibit "140"** to this my Affidavit is a copy of the letter dated August 19, 2009, sent to Mitchell.

(f) On or about August 24, 2009, Atas sold the Wycliffe Property and the sum of \$177,069.22 was paid to Peoples to be applied to the amount owing under the Wycliffe Mortgage. Peoples agreed to discharge the Wycliffe Mortgage on the condition that Atas agreed that Peoples could proceed with enforcement proceedings on the Wycliffe Judgment to collect on the deficiency that resulted from the sale. The fees and interest had increased to \$207,794.31. Atas signed

an Acknowledgement acknowledging that Peoples may collect and enforce the remaining indebtedness under the Wycliffe Mortgage by any and all means or rights available to it under the Wycliffe Mortgage and Wycliffe Judgment. Attached hereto and marked as **Exhibit "141"** to this my Affidavit is a copy of the said Acknowledgement dated August 24, 2009, and signed by Atas.

- (g) To date, amounts remain owing by Atas on the Wycliffe Judgment dated May 11, 2009, in the sum of \$30,752.09. Attached hereto and marked as **Exhibit "142"** to this my Affidavit is a Statement of Amounts Owing Under the Wycliffe Judgment to the date of the sale of the Wycliffe Property by Atas.

103. Attached hereto and marked as **Exhibit "143"** to this my Affidavit is a copy of the Parcel Register for the Wycliffe Property obtained by me on September 9, 2014.

### **Proceedings in Wycliffe Mortgage Action**

104. The following is a summary of the proceedings including the various motions brought by Atas in the Wycliffe Mortgage Action to date.

<b>Wycliffe Mortgage Action</b>					
	<b>Date</b>	<b>Court Doc./Activity</b>	<b>Details</b>	<b>Issues Addressed by the Court</b>	<b>Exhibit</b>
a)	Oct 21/08	Statement of Claim	On October 21, 2008, Peoples issued a Statement of Claim for payment of the mortgage and possession of the property. Attached hereto and marked as <b>Exhibit "144"</b> to this my Affidavit is a copy of the said Statement of Claim.		144

## Wycliffe Mortgage Action

	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
b)	Nov 18/08	Notice of Sale Under Mortgage	On November 18, 2008, Peoples issued and served a Notice of Sale Under Mortgage. Attached hereto and marked as <b>Exhibit "145"</b> to this my Affidavit is a copy of the said Notice of Sale Under Mortgage.		145
c)	Dec 3/08	Statement of Defence	On December 3, 2008, Atas served a Statement of Defence claiming that the mortgage is current. Attached hereto and marked as <b>Exhibit "146"</b> to this my Affidavit is a copy of the said Statement of Defence dated November 5, 2008.		146
d)	Mar 5/09 **	Triage Court – at request of Atas	On March 5, 2009, Atas attended Triage Court and requested an adjournment of the Summary Judgment motion scheduled for March 9, 2009, and filed a doctor's note. Justice Brown denied the adjournment. Attached hereto and marked as <b>Exhibit "147"</b> to this my Affidavit is a copy of the Endorsement of Justice Brown dated March 5, 2009.		147
e)	Mar 9/09 * **	Motion for Summary Judgment ( <i>adjourned</i> )	On March 9, 2009, Atas requested an adjournment of the motion due to ill health and supplied a doctor's note dated March 6, 2009. Justice Stewart adjourned the motion to May 11, 2009, peremptory to Atas. Attached hereto and marked as <b>Exhibit "148"</b> to this my Affidavit is a copy of the Endorsement of Justice Stewart.		148
f)	May 11/09 **	Motion for Summary Judgment ( <i>heard</i> )	On May 11, 2009, the motion for summary judgment proceeded. Atas did not attend but sent an email to the court advising that she was in the hospital and could not leave voluntarily. Judgment was granted to Peoples in the sum of \$164,726.95 together with costs of \$10,000 and possession of the		149 150

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			Wycliffe Property. . Attached hereto and marked as <b>Exhibits "149"</b> and <b>"150"</b> to this my Affidavit are copies of the said email and the Judgment together with the Endorsement of Justice Aston.		
g)	May 14/09 **	Triage Court	On May 14, 2009, Atas attended Triage Court to request a motion date to set aside the Judgment of May 11, 2009, and advised that she wished to have a litigation guardian appointed and that she had an appointment that day with the PGT. Justice Strathy granted a motion date of May 29, 2009, and in the meantime ordered that Peoples take no steps to sell the property until the motion is heard. Attached hereto and marked as <b>Exhibit "151"</b> to this my Affidavit is a copy of the Endorsement of Justice Strathy.		151
h)	May 29/09 **	Motion heard	On May 29, 2009, Atas' motion proceeded before Justice McDonnell. Atas appeared for herself and requested an adjournment to continue her efforts to obtain a litigation guardian. The adjournment was not granted in light of the history of non-compliance with deadlines and repeated requests to delay the matter. The motion was dismissed. Attached hereto and marked as <b>Exhibit "152"</b> to this my Affidavit is a copy of the Endorsement of Justice MacDonnell.	•set aside the Judgment	152
i)	Mar 22/10	Examination in Aid of Execution	On March 22, 2010, Peoples conducted an examination in aid of execution. Atas attended the examination but refused to answer any questions.		
j)	Mar 24/10	Notice of Motion served by Atas	On March 24, 2010, Atas served a Notice of Motion upon Peoples.		

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
k)	Apr 5/10	Notice of Assessment of Costs served by Atas	On April 5, 2010, Atas served Peoples with a Notice of Assessment of Costs returnable August 3, 2010.		
l)	Apr 29/10 **	Motion by Atas heard	On April 29, 2010, Justice Wilson heard Atas' motion and dismissed the motion and directed the parties to make written cost submissions. Attached hereto and marked as <b>Exhibit "153"</b> to this my Affidavit is a copy of the Endorsement of Justice Wilson dated April 29, 2010.	<ul style="list-style-type: none"> <li>•setting aside Notice of Garnishment</li> <li>•Peoples provide a detailed Bill of Costs including dockets</li> <li>•a trial of the assessment of costs</li> <li>•this court action be heard together with the George St. Mortgage Action</li> <li>•the funds provided to Peoples by Atas was sufficient to satisfy the Judgment</li> <li>•Peoples extorted the Acknowledgement and that Atas was entitled to a discharge of the Wycliffe Mortgage</li> </ul>	153
m)	May 21/10	Written Cost Submissions	On May 21, 2010, Justice Wilson issued an endorsement regarding costs of the motion heard April 29, 2010, and awarded Peoples \$4,000 payable out of any remaining portion of the funds in D&L's trust account in the George St. Mortgage Action. Justice Wilson commented in her endorsement as follows "I note as well that at no time during the hearing of this motion did Ms. Atas advise me she was under a disability or unable to represent herself properly. She was articulate		154

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			and able to put her submissions forward to the court". Attached hereto and marked as <b>Exhibit "154"</b> to this my Affidavit is a copy of the Cost Endorsement of Justice Wilson dated May 21, 2010.		
n)	Jun 10/10	Notice of Appeal – Ontario Court of Appeal	On June 10, 2010, Atas served Peoples with a Notice of Appeal of dated April 29, 2010, requesting that the Orders of Justice Wilson dated April 16 and 29, 2010, be set aside on the basis that Justice Wilson exhibited a reasonable apprehension of bias as well as requesting that the Judgment of Justice Aston dated May 11, 2009, and the Order of Justice MacDonnell (erroneously stated as Justice Strathy) dated May 29, 2009, be set aside. Attached hereto and marked as <b>Exhibit "155"</b> to this my Affidavit is a copy of the said Notice of Appeal.		155
o)	Jul 7/10	Order of Justice Wilson issued	On or about July 7, 2010, Justice Wilson signed the Order of the motion heard by her on April 29, 2010, as Atas refused to approve the draft Order as to form and content. . Attached hereto and marked as <b>Exhibit "156"</b> to this my Affidavit is a copy of the said issued Order of Justice Wilson dated April 29, 2010.		156
p)	July 23/10  <b>NO CAPACI TY</b>	PGT appointed as Litigation Guardian in other proceedings (not involving Peoples)	Master Muir ordered that the PGT be appointed as Litigation Guardian in five proceedings not involving Peoples Trust. Attached hereto and marked as <b>Exhibit "157"</b> to this my Affidavit is a copy of the Endorsement of Master Muir dated July 23, 2010.		157
q)	Aug 3/10 * **	Cost Assessment	On August 3, 2010, Atas attended at the assessment and requested an adjournment advising that she is requesting that the PGT be		158

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			appointed as her litigation guardian. Assessment Officer Ittleman adjourned the assessment to December 22 and 23, 2010. Attached hereto and marked as <b>Exhibit "158"</b> to this my Affidavit is a copy of the Endorsement of Assessment Officer Ittleman dated August 3, 2010.		
r)	Aug 23/10 ***	Atas serves Notice of Motion for Court of Appeal	On August 23, 2010, Atas served D&L with a Notice of Motion for the Court of Appeal returnable October 22, 2010, a date which was unilaterally obtained by Atas. The motion requests an order appointing the PGT as her litigation guardian. Attached hereto and marked as <b>Exhibit "159"</b> to this my Affidavit is a copy of the said Notice of Motion.		159
s)	Aug 27/10 ***	Atas serves Notice of Motion	On August 27, 2010, Atas served D&L with a Notice of Motion returnable September 29, 2010, a date which was unilaterally obtained by Atas. The motion requests an order appointing the PGT as her litigation guardian. Attached hereto and marked as <b>Exhibit "160"</b> to this my Affidavit is a copy of the said Notice of Motion.		160
t)	Sep 29/10	Motion date	Atas' motion scheduled to be heard on September 29, 2010, was not heard as Atas failed to confirm the motion with the motion court office.		
u)	Oct 22/10	Court of Appeal Motion adjourned on consent (adjournment #3)	Adjourned at request of PGT and on consent of all parties. PGT advised that it was seeking to be appointed as Atas' litigation guardian in this action by Master Muir.		
v)	Nov 18/10  <b>regained CAPACI</b>	PGT advises that Atas claims to have regained her capacity	On November 18, 2010, D&L received a letter from PGT advising that Atas takes the position that she regained her capacity and no longer		161

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
	TY		requires the PGT to be her litigation guardian. PGT also confirms that it does not represent Atas in the proceedings involving Peoples. Attached hereto and marked as <b>Exhibit "161"</b> to this my Affidavit is a copy of the said letter from PGT to D&L dated November 18, 2010.		
w)	Sep 1/11 * **	Motion in Court of Appeal by Atas (adjournment #1	On September 1, 2011, Atas requested the court to extend the time to perfect her appeal. Justice Karakatsanis adjourned the matter to October 17, 2011, peremptory, with or without counsel. Attached hereto and marked as <b>Exhibit "162"</b> to this my Affidavit is a copy of the endorsement of Justice Karakatsanis.		162
x)	Oct 17/11 * **	Motion in Court of Appeal	On October 17, 2011, Justice Cronk heard a motion brought by Atas to extend the time to perfect her appeal and to stay Orders pending the outcome of the appeal. Justice Cronk ordered that an extension of time to perfect the appeal is granted to November 30, 2011 and that no further extensions will be granted. Attached hereto and marked as <b>Exhibit "163"</b> to this my Affidavit is a copy of the endorsement of Justice Cronk dated October 17, 2011.	<ul style="list-style-type: none"> <li>• Atas no longer wishes the PGT be appointed as her litigation guardian</li> <li>• Stay Orders until outcome of Appeal</li> </ul>	163
y)	Nov 21/11 ***	Notice of Motion served by Atas – Court of Appeal	On November 21, 2011, Atas served D&L with a Notice of Motion returnable November 27, 2011, a date unilaterally selected by Atas, seeking an extension of time to perfect the appeal together with other various requested relief including setting aside garnishments and vacating the writ of execution. Attached hereto and marked as <b>Exhibit "164"</b> to this my Affidavit is a copy of the said Notice of Motion		164



Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
z)	Nov 25/11 ***	Notice of Motion served by Atas – Court of Appeal	On November 25, 2011, Atas served D&L with a Notice of Motion returnable November 30, 2011, a date unilaterally selected by Atas, seeking substantially the same relief as her previous Notice of Motion served on November 21, 2011. Attached hereto and marked as <b>Exhibit “165”</b> to this my Affidavit is a copy of the said Notice of Motion served November 25, 2011.		165
aa)	Nov 28/11	Atas advises motion cancelled	On November 28, 2011, Atas sent an email to D&L advising that it should disregard the Notice of Motion served November 21, 2011, as she has booked a new date and will serve a motion record. Attached hereto and marked as <b>Exhibit “166”</b> to this my Affidavit is a copy of the said email from Atas dated November 28, 2011.		166
bb)	Nov 30/11 ***	Atas serves Notice of Motion – Court of Appeal	On or about November 30, 2011, Atas personally delivered a Notice of Motion returnable December 14, 2011, a date unilaterally selected by Atas, seeking similar relief to that set out in the Notices of Motion served on November 21 and 25, 2011. Attached hereto and marked as <b>Exhibit “167”</b> to this my Affidavit is a copy of the Notice of Motion served November 30, 2011.		167
cc)	Dec 14/11 **	Motion – Court of Appeal	On December 14, 2011, Justice Rosenberg heard Atas’ motion and D&L’s cross motion to dismiss the appeal for delay. Justice Rosenberg dismissed Atas’ motion and directed D&L to request the Registrar to dismiss the appeal for delay and awarding \$2,500 in costs. Attached hereto and marked as <b>Exhibit “168”</b> to this my Affidavit is a copy of the Endorsement of Justice		168

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			Rosenberg.		
dd)	Dec 22/11	Court of Appeal – Order Dismissing Appeal for Delay	On December 22, 2011, the Court of Appeal Registrar issued an Order Dismissing the Appeal for Delay and ordered costs payable by Atas of \$750.00. Attached hereto and marked as <b>Exhibit “169”</b> to this my Affidavit is a copy of the said Order dated December 22, 2011		169
ee)	Dec 30/11 ***	Atas serves Notice of Preliminary Appointment for Cost Assessment	On December 30, 2011, Atas served D&L with a Notice of Preliminary Appointment Re: Solicitor/Client Assessment for February 13, 2012, a date unilaterally obtained by Atas. Attached hereto and marked as <b>Exhibit “170”</b> to this my Affidavit is a copy of the said Notice.		170
ff)	Feb 10/12	Court of Appeal – Order Dismissing Motion for Delay	On February 10, 2012, the Court of Appeal Registrar issued an Order Dismissing Motion for Delay and ordered costs payable by Atas of \$750.00. Attached hereto and marked as <b>Exhibit “171”</b> to this my Affidavit is a copy of the said Order dated February 10, 2012.		171
gg)	Feb 13/12 * **	Preliminary Assessment	On February 12, 2012, Assessment Officer Ittleman adjourned the matter to March 12, 2012.		
hh)	Mar 12/12 * **	Assessment of Costs (adjourned)	On March 12, 2012, Assessment Officer Ittleman adjourned the assessment to August 16 & 17, 2012, and directed that any further adjournments should only be granted in extenuating circumstances. Attached hereto and marked as <b>Exhibit “172”</b> to this my Affidavit is a copy of the Endorsement of Assessment Officer Ittleman.		172
ii)	May 18/12 Case	Assignment to Case Management	Regional Senior Justice Then’s delegate, Justice Low, assigned this and 14 other actions involving Atas		173

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
	Managem ent		into case management with Justice Stinson appointed to case manage the actions and hear all interlocutory matters. Attached hereto and marked as <b>Exhibit "173"</b> to this my Affidavit is a copy of the Letter from Justice Low dated May 18, 2012		
jj)	Jul 3/12	Case Management Order	Justice Stinson as case management judge ordered that no steps be taken in the assessment process pending further order of the court. Attached hereto and marked as <b>Exhibit "174"</b> to this my Affidavit is a copy of the Order of Justice Stinson dated July 3, 2012.		174
kk)	Jul 31/12	Case Conference Atas request for urgent motion	At the Case Management Conference before Justice Stinson on July 31, 2012, Ms. Atas requested that Stinson J. hear an urgent motion staying the enforcement of the orders by People's Trust. Justice Stinson agreed to hear such a motion on that issue on September 12, 2012.		
ll)	Aug 17/12	Notice of Motion for Sep 12/12 motion	On or about August 17, 2012, D&L received from Atas her Notice of Motion and Atas' supporting Affidavit claiming the following relief: <ul style="list-style-type: none"> <li>•an order to vacate the Aston Judgment</li> <li>•an order to vacate the writ of execution dated August 20/09</li> <li>•an order to vacate the notice of garnishment dated August 19/09</li> <li>•an order to vacate the notice of garnishment dated February 3/10</li> <li>•an order setting aside the executed Acknowledgement dated August 24/09</li> <li>•an order to vacate the Statement of Amount Owing Under Judgment as at August 7, 2012</li> <li>•an order that Peoples provide to Atas all correspondence between the plaintiff and brokerages, banks, financial institutions</li> </ul>		175

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			<p>bearing court file 08-364585</p> <ul style="list-style-type: none"> <li>•an order that Peoples provide Atas an accounting of all expenses and interest, including legal fees, related to the mortgage registered on title to the Wycliffe Property;</li> <li>•an order that Peoples be deprived of its costs for its conduct in this action</li> <li>•an order to reopen the transaction and take account between Peoples and Atas</li> <li>•an order to reopen the account already taken and relieve Atas from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of the loan on the mortgage</li> <li>•an order directing Peoples to repay any such excess if the same has been paid or allowed on account by Atas</li> <li>•an order to set aside either wholly or in part or revise or alter any security given or agreement made in respect of the money lent, and, if Peoples has parted with the security, directing Peoples to indemnify Atas</li> <li>•an order that Peoples be deprived of its costs for its conduct</li> <li>•an order that Peoples pay costs for its conduct</li> </ul> <p>Attached hereto and marked as <b>Exhibit "175"</b> to this my Affidavit is a copy of the said Notice of Motion.</p>		
mm	Aug 17/12	Letter to Justice Stinson from D&L	<p>On August 17, 2012, D&amp;L sent a letter to Justice Stinson requesting an urgent case conference to limit the scope of relief which Atas was claiming in this action and the related George Street Action. Attached hereto and marked as <b>Exhibit "176"</b> to this my Affidavit is a copy of the said letter.</p>		176

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
nn)	Sep 4/12	Letter from Justice Stinson	On September 4, 2012, Justice Stinson sent a letter to D&L and Atas advising that the scope of the motion by Atas on September 12, 2012, is limited to the issue of garnishments. Attached hereto and marked as <b>Exhibit "177"</b> to this my Affidavit is a copy of the said letter.		177
oo)	Sep 6/12	Letter from Atas to Justice Stinson	On September 6 or 7, 2012, Atas faxed a letter to Justice Stinson requesting that he reschedule the motions for September 12, 2012, to permit her lawyer sufficient time to prepare for the motions. Attached hereto and marked as <b>Exhibit "178"</b> to this my Affidavit is a copy of the said letter.		178
pp)	Sep 7/12	Email from Atas to Justice Stinson	On September 7, 2012, Atas emailed Justice Stinson a further copy of her letter to him dated September 7, 2012, together with a copy of an email from Christina Wallis of D&L to Atas opposing any adjournment. Attached hereto and marked as <b>Exhibit "179"</b> to this my Affidavit is a copy of the said email.		179
qq)	Sep 7/12	Letter from D&L to Justice Stinson	On September 7, 2012, D&L emailed a letter to Justice Stinson opposing any adjournment request which Atas had made in writing to Justice Stinson. Attached hereto and marked as <b>Exhibit "180"</b> to this my Affidavit is a copy of the said letter.		180
rr)	Sep 7/12	Atas emails letter to Justice Stinson	On September 7, 2012, Atas sent a further letter to Justice Stinson in which she claims that Christina Wallis' letter to Justice Stinson lacks candour and is inappropriate. Attached hereto and marked as <b>Exhibit "181"</b> to this my Affidavit is a copy of the said letter.		181
ss)	Sep 7/12	Email message from Justice Stinson	On September 7, 2012, Justice Stinson sent an email message to all parties regarding communications to the court and proper procedure for requesting an adjournment. Attached hereto and marked as		182

Wycliffe Mortgage Action					
	Date	Court Doc./Activity	Details	Issues Addressed by the Court	Exhibit
			Exhibit "182" to this my Affidavit is a copy of the said email message from Justice Stinson.		
tt)	Sep 12/12 * **	Motion by Atas requesting extensive relief	<p>Motion adjourned by Justice Stinson to a date that may be fixed by Justice Stinson as case management judge. Atas ordered to pay Peoples costs of \$10,000 within 30 days and to pay the Motions Court Office the requisite motion filing fee by no later than October 10, 2012.</p> <p>Justice Stinson adjourned the motion and that if the motion is brought back on in the future, that the relief sought will be confined to a request to vacate the Aston Judgment, the writ of execution, and the notice of garnishments. He further ordered that various grounds recited in the notice of motion not be relied upon.</p> <p>Attached hereto and marked as Exhibit "183" to this my Affidavit is a copy of the Endorsement and Order Justice Stinson dated September 25, 2012, and the related Order dated September 12, 2012.</p>		183
uu)	Sep 14/12	Email to Atas from D&L regarding withdrawal of Writs and Garnishments	<p>On September 14, 2012, D&amp;L sent to Atas by email notification that all Writs of Execution and Notices of Garnishment had been withdrawn together with copies of the letters to the Sheriffs and Notices of Termination of Garnishment. Attached hereto and marked as Exhibit "184" to this my Affidavit is a copy of the said email and enclosures.</p>		184
vv)	current	Current Status	At the case management conference on July 21, 2014, Justice Stinson directed that all matters being case managed be stayed pending the outcome of the s. 140 vexatious litigant application.		

- \* Requests by Atas for adjournment where court attendance required (totals 7)
- \*\* Court Attendances not including case management conferences (totals 13)
- \*\*\* Court dates unilaterally obtained by Atas (totals 6)

### **Current Status**

105. As indicated above, the current status of this action is that any proceedings in this action are stayed pending the outcome of the vexatious litigant application. The deficiency under the Wycliffe Mortgage remains outstanding and is collectable under the Wycliffe Judgment.

106. Atas continues to allege that Peoples was obligated to apply the sale proceeds to the Wycliffe Judgment prior to applying the sale proceeds to the Wycliffe Mortgage. Atas has attempted to raise this issue before Justice Wilson and Justice Stinson as referred to at paragraphs 103(l) and (m) and 103(kk)(ll) and (tt) of this my Affidavit.

107. As well, Atas has relentlessly sent emails demanding statements and making various allegations against D&L and its lawyers alleging that the Wycliffe Judgment has been paid in full, some of which emails are as follows:

<b>Date(s) of Email Chain</b>	<b>Exhibit No.</b>
March 1, 6, 8, 2012	<b>185</b>
April 9, 2012	<b>186</b>
August 1, 2, 7, 8, 18, 20, 28, 2012	<b>187</b>
September 4, 6, 7, 8, 10, 15, 16, 26, 2012	<b>188</b>
October 9, 2012	<b>189</b>

108. To date, Peoples has not received any payment of any amount owing under the Judgment for the amounts outstanding under the Wycliffe Mortgage as at the date of the sale of the Wycliffe Property from Atas or from any Wycliffe Judgment enforcement proceedings.

## **D: WYCLIFFE ACTION – ATAS V. PEOPLES**

### **Background**

109. On December 20, 2011, Peoples was served with an Amended Statement of Claim, action no. CV-11-429180, claiming damages in the sum of \$2,000,000 and punitive damages of \$500,000 relating to the Wycliffe Mortgage (the “**Wycliffe Action**”). The claim alleges that Peoples refused to take steps to have the PGT appointed on Atas’ behalf. Atas’ claim also states Peoples has refused to discharge the Judgment. Atas also alleges negligent and fraudulent misrepresentation, wrongful interference with goods of another, wrongful possession, improvident value, rescission and rectification, and unconscionable transaction. Attached hereto and marked as **Exhibit “190”** to this my Affidavit is a copy of said Statement of Claim.

### **Proceedings in Action**

110. The events in the Wycliffe Action are the same as in the George Street Action as set out above with respect to the noting in default, motion to set aside the noting in default, and the Request to Inspect Documents.

111. On April 10, 2012, a Statement of Defence was served upon Atas. Attached hereto and marked as **Exhibit “191”** to this my Affidavit is a copy of the Statement of Defence.

### **Current Status**

112. On April 16, 2014, the court issued a Status Notice in this action. Rather than have Justice Stinson deal with the Registrar’s administrative dismissals as he directed, Atas on July 4, 2014, served Peoples with a Request for Status Hearing. The court has scheduled October 9, 2014, for the Status Hearing. At the Case Management Conference on July 21, 2014,



Justice Stinson made a handwritten Order directing that this action not be dismissed pending the outcome of the vexatious litigant application. Attached hereto and marked as **Exhibit “192”** to this my Affidavit is a copy of the handwritten Order of Justice Stinson dated July 21, 2014.

### **Further Action Commenced**

113. On or about June 27, 2014, Atas commenced a new action against Peoples, David Bresver and his law firm, and Michael Mitchell by way of Notice of Action. To date, Atas has only provided D&L with the first page of the Notice of Action, court file 14-507409 despite a direction by Justice Stinson to provide a full copy to D&L of same. Attached hereto and marked as **Exhibit “193”** to this my Affidavit is a copy of the said Notice of Action.

### **E: Lawyer Representation of Atas**

114. The following are times throughout the litigation between Peoples and Atas when Atas was represented by a lawyer:

<b>Date</b>	<b>Lawyer</b>
May 30, 2008 to Dec 5, 2008	Benjamin Salsberg
Jun 25, 2009 to Apr 16, 2010	Michael Mitchell
Jun 25, 2009 to Apr 16, 2010	Nicolas Canizares
Jun 8, 2009 to June 12, 2009	Wendy Greenspoon-Soer
From July 23, 2010 ( <i>Atas self declared to Master Muir on Nov 1, 2010 that she had capacity and that she did not wish PGT to represent her any longer</i> )	Sidney Peters – PGT
Aug 7, 2011/2012 ( <i>never formally on record</i> )	Noel Daley
Sep 12, 2012 ( <i>on hearing of motion only</i> )	Raj Napal
Dec 20, 2013, to Jan 30, 2014	Peter I. Waldmann
Mar 26, 2014, to date	Dr. Hamalengwa

### **F: PGT**

115. On January 17, 2012, D&L sent a letter to the Ontario Human Rights Tribunal setting out its position with respect to Atas’ claim that she is under a disability:

To date, Peoples has been involved in four legal actions in the Ontario Superior Court with Ms. Atas since 2008. Judgments in two of those proceedings were appealed by Ms. Atas to the Ontario Court of Appeal which appeals were dismissed on December 22, 2011, for delay. In addition to the said four legal actions, Peoples has been involved with Ms. Atas in the assessment of costs proceedings related to two of the said actions pursuant to s.43 of the *Mortgages Act*. In none of the aforementioned proceedings has Ms. Atas been represented by a litigation guardian including the PGT. Ms. Atas has raised the issue of the appointment of the PGT as her litigation guardian *in each* of the aforementioned proceedings, including the Court of Appeal, but the court has at no time ordered that the PGT be appointed in the said proceedings.

Peoples' position in the aforementioned proceedings has always been, and continues to be, that Ms. Atas is not a person under disability as set out in Rule 7 of the Ontario *Rules of Civil Procedure* and as defined at Rule 1.04(1) of the *Rules*. At no time has Peoples had any evidence to present to the court to raise the concern that Ms. Atas should be represented by a litigation guardian. Any capacity assessments which Ms. Atas has obtained and presented to the court in court actions not related to Peoples have been placed under court seal.

My client continues to assert its position that Ms. Atas has advanced the position to the courts that she is a person under disability under the false expectation that should the PGT be appointed as her litigation guardian, then the PGT would act as her lawyer free of charge. When Ms. Atas learned that the PGT had settled the five actions to which the PGT was appointed (as referred to in the PGT's letter response herein) on the basis that the actions would be dismissed, she immediately sought the removal of the PGT as her litigation guardian.

Attached hereto and marked as **Exhibit "194"** is a copy of the said letter to the Ontario Human Rights Tribunal dated January 17, 2012.

116. The PGT has at no time been appointed in any action involving Peoples.

117. In five actions not involving Peoples, Master Muir on July 23, 2010, at Atas' request, appointed the PGT (the "**PGT Actions**"). Attached hereto and marked as **Exhibit "195"** to this my Affidavit is a copy of the Endorsement of Master Muir dated July 23, 2010.

118. On or about September 28, 2010, our firm received a copy of a letter dated September 28, 2010, from the PGT to Master Muir requesting that the PGT be appointed with respect to the George St. Mortgage Action, being currently before the Ontario Court of Appeal, with the consent of Peoples and Atas. Attached hereto and marked as **Exhibit "196"** to this my Affidavit is a copy of the said letter dated September 28, 2010.

119. On or about October 20, 2010, the motion scheduled in the Ontario Court of Appeal in the George St. Mortgage Action was adjourned on consent by the parties in anticipation that the PGT may be appointed as litigation guardian for Atas in the George St. Mortgage Action.

120. On or about November 18, 2010, our firm received a letter from the PGT dated November 18, 2010, advising that Atas takes the position that she has regained her capacity such that she no longer requires the PGT to be her litigation guardian. The PGT states that for this reason Master Muir has declined to appoint the PGT as Atas' litigation guardian in the George St. Mortgage Action and the Wycliffe Mortgage Action. Attached hereto and marked as **Exhibit "197"** to this my Affidavit is a copy of the said letter dated November 18, 2010.

121. I believe that once Atas learned that she had lost the ability to control the PGT Actions in which the PGT had been appointed and that the PGT had settled the actions on the basis of dismissing the actions, Atas no longer wished to have the PGT appointed. On November 1, 2010, Atas requested that the PGT be removed. Attached hereto and marked as **Exhibit "198"** to this my Affidavit is a copy of the Endorsement of Master Muir dated November 1, 2010.

122. I believe Atas used the uncertainty of the appointment of the PGT in the PGT Actions to obtain adjournments in all other actions in which she is involved, as this tactic is consistent with her overall objective of delaying the proceedings and causing all litigation opponents to incur significant legal costs.

### **G: Case Management**

123. On May 18, 2012, Justice Stinson was assigned to be the case management judge in all actions involving Peoples as well as approximately sixteen other actions.

124. Justice Stinson stayed all proceedings under case management until such time as Atas' capacity was determined.

125. On January 30, 2014, Justice Stinson heard a motion and ordered that Atas no longer required the PGT as her litigation guardian and that she is not a party under disability. Attached hereto and marked as **Exhibit "199"** to this my Affidavit is a copy of the Endorsement of Justice Stinson dated January 30, 2014. To date, Atas has failed to have an Order issued and entered for the January 30, 2014, decision despite directions by Justice Stinson to do so.

126. Since then Justice Stinson has further stayed all proceedings until such time as a vexatious litigant application is determined.

127. I am advised by Christina Wallis and verily do believe that Justice Stinson has made various directions during the case management conferences directing that Atas and her lawyer complete various tasks. The following are directions by Justice Stinson for which Atas has not

complied:

<b>Date</b>	<b>Due Date</b>	<b>Direction</b>
March 26, 2014	April 4, 2014	Deliver consent orders to set aside various administrative dismissal orders.
March 26, 2014	June 30, 2014	Provide all counsel with any proposed amended pleadings in all actions.
March 26, 2014	April 18, 2014	Take out Order from Endorsement of Justice Stinson dated January 30, 2014, removing PGT in the five PGT Actions.
July 22, 2014	July 28, 2014	Again directed that Atas take out the January 30, 2014, Order removing the PGT.
July 22, 2014		Atas to provide copies of all newly issued Notices of Action and Statements of Claims to counsel and not to proceed with any further Statements of Claim or require any Statements of Defence.
July 22, 2014	July 31, 2014	Again directed Atas to send counsel draft consent orders to set aside administrative dismissal orders.

128. At the case management conference before Justice Stinson on July 22, 2014, Atas advised Justice Stinson that she wished to bring a recusal motion to have Justice Stinson recuse himself as case management judge and have a new case management judge appointed from another jurisdiction because she claimed that the judges talk with one another. Justice Stinson directed that Atas provide him with a memorandum setting out the grounds for her request for a recusal motion so that he could discuss same with the Regional Judge and make a determination with respect to the request.

129. On July 25, 2014, Atas' lawyer sent to Justice Stinson's office a memorandum regarding the requested recusal motion. Attached hereto and marked as **Exhibit "200"** to this my Affidavit is a copy of the said Memorandum prepared by Atas.

130. On September 8, 2014, Atas submitted a further letter to Justice Stinson setting out further grounds upon which she relies in making a request that Justice Stinson recuse himself. Attached hereto and marked as **Exhibit "201"** to this my Affidavit is a copy of the said letter dated September 8, 2014.

131. On September 19, 2014, Justice Himel emailed all parties a letter advising that without acknowledging that there is any merit to Atas' allegations of bias, Justice David Corbett will replace Justice Stinson as case management judge of all the actions effective immediately. Attached hereto and marked as **Exhibit "202"** to this my Affidavit is a copy of the said letter from Justice Himel dated September 19, 2014.

132. On September 23, 2014, Atas emailed Justice Corbett's office requesting that Justice Corbett make an Order that the Status Hearing scheduled for October 9, 2014, in action number 11-429180 be adjourned to the next case management conference on October 16, 2014, on the grounds that all Justice Stinson's Orders are now rendered tainted and void because Justice Stinson recused himself. Attached hereto and marked as **Exhibit "203"** to this my Affidavit is a copy of the said email from Atas dated September 23, 2014.

### **H: Further Actions Commenced by Atas**

133. In addition to the new actions commenced by Atas as mentioned above, Atas has commenced two further actions which do not involve Peoples as follows:

- (a) Action 14-507414 commenced June 27, 2014, against Seon Gutstadt Lash LLP, Benjamin Salsberg, and Stanley Goodman for \$40,000,000; and

- (b) Action 14-507402 commenced June 27, 2014, against lawyer Ralph Steinberg for \$3,500,000. Mr. Steinberg was the lawyer who represented Atas on criminal charges that resulted from Atas assaulting one of her tenants at the George St. Property.

134. On July 20, 2011, Atas had the court issue two Statements of Claim naming D&L and some of its lawyers as defendants. Each action claimed \$2,000,000 alleging that damages were caused to Atas as a result of the named defendants refusing to notify the court of Atas' disability in order to gain an advantage. Atas never served the said Statements of Claim upon any of the defendants. Attached hereto and marked as **Exhibit "204"** to this my Affidavit are copies of the two Statements of Claim.

135. On July 16, 2014 D&L requested our court runner to check the court files for the Ontario Superior Court in Toronto to determine the actions to which Atas is involved. Our court runner determined that there are 43 court actions on files involving Atas of which 29 were commenced by Atas. Attached hereto and marked as **Exhibit "205"** to this my Affidavit is a copy of the print out from the court files showing the said actions.

## I: Appeals of Orders

136. The following is a summary of the attempts by Atas and 626 to have orders set aside:

Date	Action	Details
May 22/09	George St. Mortgage Action	Atas sought motion to vary Judgment claiming it was obtained with a false Affidavit. Motion dismissed by Justice Aston.
Jun 10&11/09	George St. Mortgage Action	Atas attends triage court and court agrees to hear motion on June 11, 2009 on condition that Atas bring her counsel, Ms. Greenspoon-Soer, and file materials. Atas seeks to stay the eviction on June 11, 2009 by the Sheriff from her Property. Motion dismissed by Justice Strathy.
May 29/09	Wycliffe Mortgage Action	Motion heard by Justice MacDonnell. Atas brought motion to set aside Judgment of May 11, 2009, for reasons that she was in hospital



Date	Action	Details
		and unable to attend on the motion and that she wishes to have the PGT appointed. Motion dismissed.
Apr 16/10	George St. Mortgage Action	Atas brings motion seeking that the assessment of costs be sent to trial. Motion dismissed by Justice Wilson.
Apr 29/10	Wycliffe Mortgage Action	Motion heard by Justice Wilson. Atas sought to set aside Notice of Garnishment and that the court direct a trial of issues of costs. Motion dismissed.
Jun10/2011	George St. Mortgage Action and Wycliffe Mortgage Action	Atas files Notice of Appeal with the Ontario Court of Appeal appealing various Orders from both actions. The appeals are now in the process of being dismissed by the Registrar for delay.
Apr 20/12	George St. Mortgage Action	Atas brings motion to appeal Certificate of Cost Assessment.
Sep 12/12	Wycliffe and George St. Mortgage Actions	Atas brings motion to vacate Judgments.

### J: Unpaid Cost Orders

137. To date, Atas has unpaid cost orders owing to Peoples in the total sum of \$24,500.00 as set out below. These cost orders do not include any cost orders which have been ordered to be paid out of the funds being held in D&L's trust account in the George St. Mortgage Action. To date, Atas has never paid any cost orders to Peoples.

OUTSTANDING Cost Orders (not including Cost Orders to be paid from Trust Funds)					
No.	Action No.	Property	Date of Order	Cost Award	Exhibit Nos.
1.	08-364585	Peoples v. Atas (Wycliffe)	Dec 22, 2011 (Court of Appeal)	\$750.00	206
2.	same		Feb 10, 2012 (Court of Appeal)	750.00	207
3.	same		Sep 25, 2012	10,000.00	208
4.	08-364585 & 08-352871	Wycliffe & St. George	Dec 14, 2011 (Court of Appeal)	2,500.00	209
5.	08-352871	Peoples v. 626381 &	Dec 22, 2011	750.00	210



<b>OUTSTANDING Cost Orders</b> (not including Cost Orders to be paid from Trust Funds)					
No.	Action No.	Property	Date of Order	Cost Award	Exhibit Nos.
		Atas	(Court of Appeal)		
6.	same		Feb 10, 2012 (Court of Appeal)	750.00	211
7.	same		Sep 25, 2012	6,000.00	212
8.	11-429180	Atas v. Peoples (Wycliffe)	Mar 19, 2012	1,500.00	213
9.	11-10-411415	Atas & 626381 v. Peoples	Mar 19, 2012	1,500.00	214
<b>TOTAL</b>				<b>\$24,500.00</b>	

138. In addition to the above-noted unpaid cost orders, Atas has failed to pay the court fees for the two motions brought by her and heard on September 12, 2012, despite Justice Stinson specifically ordering that she do so by no later than October 10, 2012, in his Order of September 25, 2012. On September 9, 2014, our offices requested D&L's court runner to check the court files in action numbers 08-352871 and 08-364585 to determine whether or not the said motion court fees were paid. On September 10, 2014, I was advised by our court runner that the said motion court fees have not been paid.

### **K: Defamation**

139. I believe that Atas has attempted to defame the names of lawyers at Dale & Lessmann LLP in two forums.

140. Atas used *Craigslist.com* to attack the reputation of a former lawyer at D&L, Matthew Cameron. Matthew Cameron had previously been a lawyer at D&L with day-to-day carriage of the George St. Mortgage Action. Atas posed as Matthew Cameron on *craigslist* for the purpose of soliciting sex. She sent numerous and explicit emails to this effect. D&L acquired the metadata behind those postings and it confirmed that it was Atas making the posts. When confronted by Christina Wallis, Atas immediately stopped posting the lewd listings on *craigslist*. Attached hereto and marked **Exhibit "215"** to this my Affidavit are copies of the emails sent by Atas, the metadata that reveals the origin of the emails and the letter sent to Atas by Christina Wallis.

141. Atas made numerous disparaging comments about D&L lawyers on a lawyer rating website called *lawyerratingz.com*. Her comments were false and libelous. Atas often called into question the competency and ethical fibre of D&L lawyers. Attached hereto and marked **Exhibit "216"** to this my Affidavit are copies of the comments that were made.

### **L: Complaints, Threats and Meritless Allegations**

142. Atas and her lawyer, Noel Daley, in attempts to persuade Peoples to provide its consent to the adjournment of motions, have indicated that Peoples, Dale & Lessmann LLP, and individual lawyers of Dale & Lessmann LLP will be served with further proceedings. Atas and Mr. Daley have stated that this would place Dale & Lessmann LLP in a conflict of interest in acting for Peoples. Attached hereto and marked as **Exhibit "217"** to this my Affidavit are copies of email correspondence received from Atas and Noel Daley in that regard.

143. On or about January 7, 2013, Atas filed a complaint against Christina Wallis of D&L with the Law Society of Upper Canada who investigated the complaint and decided to take no further action. Attached hereto and marked as **Exhibit "218"** to this my Affidavit is a copy of the said complaint filed by Atas together with letter from the Law Society of Upper Canada to Christina Wallis dated March 7, 2013.

144. On numerous occasions Atas has emailed D&L making meritless allegations, threats, and generally harassing, some examples of which are as follows:


- (a) On March 30, 2012, Atas engaged in a chain of emails with Christina Wallis and Garth Dingwall at D&L wherein Atas demands that they provide her with case law to support a position that Atas stated she intended to advance. D&L's lawyers advised Atas that it is not required to provide Atas with authorities to assist her in formulating her legal arguments. In reply, Atas accused D&L's lawyers conduct as quasi criminal and threatened to forward their emails to their LawPro counsel and that these issues will probably end up in the Human Rights Tribunal and other regulatory departments. Atas also twisted words and accused Christina Wallis of advising her to sue her own lawyer. Attached hereto and marked as **Exhibit "219"** to this my Affidavit is a copy of the said email chain dated March 30, 2012.
- (b) On March 27, 2012, to April 2, 2012, Atas engaged in a chain of emails with D&L as a result of D&L requesting Atas to approve an Order as to form and content. Atas insisted that relief which was denied be inserted in the Order as she claimed "Your law firm has a history of Judge shopping with respect to having costs from various court actions paid out of the funds." Attached hereto and marked as **Exhibit "220"** to this my Affidavit is a copy of the said email chain.

- (c) On April 8 and 9, 2012, Atas sent emails to D&L as well as its client, Peoples Trust Company, alleging misconduct in that the same LawPro counsel is acting for both D&L and Atas' former lawyers who she was suing, Nicholas Canizares and Michael Mitchell. Atas further states that Christina Wallis' conduct warrants regulatory discipline by the Law Society. She also stated "Despite Mr. Canizares' past life experiences with the criminal courts, he was no match for the creative bookkeeping of Dale & Lessmann and Peoples Trust Company, which verges on fraud." Attached hereto and marked as **Exhibit "221"** to this my Affidavit is a copy of the said emails dated April 8 and 9, 2012.
- (d) On May 10 and 11, 2012, Atas engaged in a chain of emails with Christina Wallis of D&L in which she alleges that D&L's lawyers deliberately concealed funds from a lawyer she retained which is tantamount to theft and fraud. Atas copies all counsel in the various actions on this email. Christina Wallis wrote to Atas advising that the making of such false allegations of fraud and criminal activity and copying counsel is slanderous. Christina Wallis asked Atas to cease her rampage of slanderous activity and advised that such conduct would be raised before the courts in the event that Peoples brings an application to have Atas declared a vexatious litigant. Attached hereto and marked as **Exhibit "222"** to this my Affidavit is a copy of the said email chain.

### **M: Peoples' Legal Costs**

145. To date, not including legal costs recoverable as mortgagee costs under the George Street Mortgage and the Wycliffe Mortgage, Peoples has incurred and paid D&L's legal fees and disbursements of \$385,096.05 in connection with the legal proceedings involving Atas and 626.

SWORN BEFORE ME at the City of  
Toronto, on September 23, 2014.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
CRISTINE PERRI

**Cassandra Maria Da Re**, a Commissioner,  
etc., Province of Ontario, while a  
Student-at-Law.  
Expires August 8, 2017.

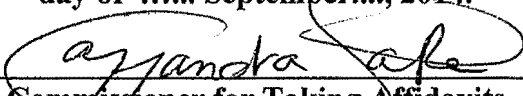
**Exhibits 1-76  
Intentionally Omitted**

This is Exhibit ...“75”... referred to in the

Affidavit of ..... Cristine Perri ...

sworn before me, this ....23<sup>rd</sup> ....

day of ..... September....., 2014.

  
A Commissioner for Taking Affidavits

Cassandra Maria Da Re, a Commissioner,  
etc., Province of Ontario, while a  
Student-at-Law.  
Expires August 8, 2017.



□ HEAD OFFICE: 55 TOWN CENTRE CRT., #100, TORONTO, ON M1P 4X4 BUS: 416-751-8583 • FAX: 416-751-7795

An Independently Owned and Operated Member Broker of Coldwell Banker Affiliates of Canada Inc.®

## CASE REALTY

BROKERAGE

March 4, 2009

Peoples Trust  
14<sup>th</sup> Floor  
888 Dunsmuir Street  
Vancouver, BC VKC-3K4

Attention: Martin Mallich

Dear Mr. Mallich,

Re: 298 St. George Street  
MTG#: /Atlas

Pursuant to your request for an estimate of the Market Value of 298 George Street, I have examined the same and herein submit the following:

The subject property is a 3 storey semi detached home situated on a 25x115 foot lot with parking via a rear yard laneway. The home is devised into 4 separate units containing a total of 8 tenants (rooming house) that share kitchens and washrooms. The general overall condition is very poor and the entire property needs upgrading. There is a lot of garbage debris and belongings scattered throughout the staircases and hallways that pose health and fire hazard issues. The legality of the present use is questionable as there appears to be no fire retrofit work done, no carbon monoxide detectors or fire rated drywall in the property.

There have been 2 sales of similar properties since 01/01/09 at an average sale price of \$583,100. There are currently 21 similar properties for sale between \$550,000-\$650,000

Market Value is the highest price in terms of money, which a property will bring if exposed for sale on the open market, allowing a reasonable time to find a Buyer who purchases with the full knowledge of all the uses to which it is capable of being used, and the Buyer being fully informed of its uses.

In my opinion, the Market Value of the above on an "AS IS" basis is between Five Hundred and Fifty Thousand (\$550,000.00) Dollars and Five Hundred and Seventy Five Thousand (\$575,000.00) Dollars. *A list price should be Five Hundred and Ninety Nine Thousand (\$599,000.00) Dollars.*

Should you have any further questions or require clarification in respect to the above, please contact the undersigned.

Yours truly,

Chris Kelos  
Senior Marketing Manager

□ TORONTO  
888 DANFORTH AVENUE  
TORONTO, ON M4J 1L6  
BUS: 416-461-0925  
FAX: 416-461-7802

□ SCARBOROUGH  
55 TOWN CENTRE COURT, STE#100  
SCARBOROUGH, ON M1P 4X4  
BUS: 416-281-2200  
FAX: 416-281-2016

□ WILLOWDALE  
352 SHEPPARD AVE., EAST  
TORONTO, ON M2N 3B4  
BUS: 416-250-9000  
FAX: 416-250-7443

□ PICKERING  
850 KINGSTON ROAD  
PICKERING, ON L1V 1A6  
BUS: 905-831-2273  
FAX: 905-420-5455

□ WHITBY  
30 DAWSON STREET  
WHITBY, ON L1N 6C8  
BUS: 905-666-6568  
TOR. LINE: 416-284-6568




**Exhibits 77-82  
Intentionally Omitted**

This is Exhibit ...“83”... referred to in the

Affidavit of ..... Cristine Perri ...

sworn before me, this ....23<sup>rd</sup> ....

day of ..... September...., 2014.

  
A Commissioner for Taking Affidavits

Cassandra Maria Da Re, a Commissioner,  
etc., Province of Ontario, while a  
Student-at-Law.  
**Expires August 8, 2017.**

CV-11-429151

## O N T A R I O

## SUPERIOR COURT OF JUSTICE

BETWEEN:

NADIRE ATAS AND 626381 ONTARIO LIMITED

Plaintiffs

- and -

KRISHAN CHAHAL AND NUTAN CHAHAL

Defendant

AMENDED THIS February 28/12 PURSUANT TO  
MODIFIÉ CE CONFORMÉMENT À  
☒ RULE/LA RÉGLE 26.02 ( A )  
☐ THE ORDER OF  
L'ORDONNANCE DU  
DATED / FAIT LE Joseph A.  
LOCAL REGISTRAR  
SUPERIOR COURT OF JUSTICE  
GREFFIER LOCAL  
COUR SUPÉRIEURE DE JUSTICE

AMENDED STATEMENT OF CLAIM1. The Plaintiffs Claim:

- a) General and Special damages in the sum of \$2,000,000.00
- b) Aggravated and punitive damages in the amount of \$500,000.00;
- c) Prejudgment and post judgment interest pursuant to the provisions of the Courts  
of Justice Act, R.S.O. 1990, Chapter C.47, as amended, Ontario;
- d) Their costs of this action on a substantial indemnity basis;

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- e) Such further and other relief as to this Honourable Court may deem just.
2. The Plaintiff 626381 Ontario Limited ("626") is a corporation incorporated pursuant to the laws of Ontario ( the "Seller")
3. The Plaintiff Nadire Atas ("Atas") is a natural person residing in the City of Toronto. Atas was at all material times the sole and directing principal of 626381 Ontario Limited ( the "Seller")
4. The Plaintiff , 626381 Ontario Limited , is a corporation incorporated pursuant to the laws of Ontario and is the owner of the property located at 298 St George St. Toronto, Ontario, a building consisting of four separate self contained units ( the "Property")
5. The defendant, Krishan Chahal, is a natural person residing in the Province of Ontario, and a registered Broker with the Real Estate Counsel of Ontario and the Toronto Real Estate Board (the "Purchaser")
6. The defendant, Nutan Chahal , is a natural person residing in the Province of Ontario, and married to the defendant, Krishan Chahal (the "Purchaser")
7. Peoples Trust Company ("Peoples Trust") is a federally incorporated corporation registered to conduct business in Ontario.

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8. Allan Thomas Strader is a barrister and solicitor licensed to and in fact carrying on the practice of law in the Province of Ontario and was retained by the Defendants Chahals in August 2009, with respect to the Plaintiffs' demand for personal and business property.
9. Elizabeth Milojevic, a Designated Capacity Assessor registered with the Office of the Public Guardian and Trustee.
10. In January 2009, Peoples Trust Company moved for mortgagee in possession of 298 St George St. Toronto.
11. In April 2009, Peoples Trust Company, through power of sale, obtained possession of 298 St George St. Toronto.
12. On May 11, 2009, Peoples Trust Company were provided with letter that Atas was receiving psychiatric treatment at the Centre for Addiction and Mental Health.
13. In or about this time, Peoples Trust Company listed 298 St George Toronto on the Multiple Listing Service with the Toronto Real Estate Board for sale at \$739,000.00
14. The defendants were introduced to 298 St. George St through Peoples Trust Company as mortgagees in possession pursuant to the Power of sale. The Defendants Chahals arranged for and viewed the interior of 298 St George St., Toronto with the agent for Peoples Trust Company.

CV-11-429151

15. On or or about May 19 2009, the Plaintiff Nadire Atas had contacted the Office of the Public Guardian and Trustee, with respect to representation due to a disability.

16. The Office of the Public Guardian and Trustee notified Peoples Trust Company , by letter dated May 20, 2009, with respect to Atas' capacity and the likelihood of incapacity that had left her in a disadvantageous position.

17. Peoples Trust Company concealed the May 20, 2009 correspondence from the Public Guardian and Trustee from the Court and moved for a writ of seizure and sale of 298 St George St. Toronto.

18. In the first week of June 2009, the defendants Chahals submitted agreement of Purchase and Sale to Peoples Trust Company, as mortgagee in possession, pursuant to a power of sale.

19. The defendants Chahals agreement of Purchase and Sale to Peoples Trust Company was not accepted and the property was instead sold by Peoples Trust Company to a higher bidder.

20. Peoples Trust Company reported the sold price of 298 St George Toronto and the scheduled closing date, on the Multiple Listing Service with the Toronto Real Estate Board on their online service, available to the Chahal defendants.

21. Subsequent to the Peoples Trust Company sale of 298 St George St, the Chahal defendants

CV-11-429151

approached the Plaintiffs with an agreement of purchase and sale for \$800,000.00, scheduled to close prior to the Peoples Trust Company sale reporting on the Multiple Listing Service with the Toronto Real Estate Board

22. In June 2009, the Plaintiffs provided to the Defendant Chahals a copy of an appraisal of 298 St George St Toronto dated September 2004 confirming an appraised value of \$725,000.00, that had been the basis for the Peoples Trust Company mortgage.

23. In June 2009, the Plaintiffs provided to the Defendants Chahals a copy an order confirming the approval of three legal parking spots.

24. The Defendant Chahals were introduced to 298 St George St Toronto and viewed the property through Peoples Trust Company.

25. The Agreement of Purchase and Sale, included a clause that the Seller would occupy the second floor apartment for up to Thirty- five days after closing and after the thirty fifth day, the Seller shall pay a per diem rate until possession is realized

26. Prior to the thirty five days, the Defendants changed the locks on 298 St George St, the second floor apartment and prevented the Plaintiffs (the "Seller") and Occupier of the second floor self contained apartment from unfettered access .

27. The Plaintiff s brought an application with the Landlord and Tenant Board for retrieval of property

CV-11-429151

28. The Plaintiff s brought an application with the Landlord and Tenant Board for retrieval of property

29. The Plaintiffs also served the Chahals with a small claims court action at the offices of the Landlord and Tenant Board in August 2009. The Landlord Tenant Board determined the the civil courts had jurisdiction on the issue of the retrieval of the personal and business property.

30. In September 2009, Allan Thomas Strader defended the Chahals with respect to the demand of the retrieval of the personal and business property located at 298 St George St. Toronto.

31. Correspondence between the Plaintiffs , Allan Thomas Strader and the defendants Chahals , with respect to the Plaintiffs property , was ongoing by email and letter and photographs of the interior of 298 St George St. Toronto.

32. The defendants disposed of the Sellers business and personal property belonging to the Plaintiffs.

33. In May 2010, Elizabeth Milojevic contacted Allan Thomas Strader with respect to retrieving the Plaintiffs personal and business property.

34. The Office of the Public Guardian and Trustee was appointed as the litigation guardian for Nadire Atas on July 19 2010 on the basis of a capacity report dated July 12, 2010 by



CV-11-429151

Elizabth Milojevic.

35. In September 2010, the Defendant Chahals consented to the appointment of the Public Guardian and Trustee but failed pursue an order.

36. The Plaintiffs plead fraudulent misrepresentation with respect to the Agreement of Purchase and Sale entered in to for the purchase of 298 St George St, Toronto

- a) The defendants made a false representation of fact
- b) The defendants knew that the representation was false or reckless as to the truth
- c) The representation was made with the intention that it would be acted upon by the Plaintiffs
- d) The Plaintiffs relied upon the representation
- e) The Plaintiffs have suffered damages as a result

37. The Defendants knew that the property was listed below market value and knowingly benefited and were enriched from the purchase.

38. The Defendants obtained an appraisal for refinancing in November 2010 for an amount in excess of \$1,000,000.00.

39. The Plaintiffs plead conversion and bailment of personal and business property located at 298 St George St. Toronto

CV-11-429151

40. The Defendants must have known or ought to have known from Peoples Trust Company

disclosures that constructive notice had been received from the Public Guardian and Trustee

with respect to the Plaintiff's capacity.

41. The defendants knew or ought to have known that Plaintiff Nadire Atas was under a

disability at the time of the Agreement of Purchase and Sale.

42. The Defendants must have known or ought to have known that the Plaintiff Atas was

suffering from a disability from the photographs taken by the Defendants.

43. The Plaintiffs plead that Chahals knew that the Plaintiff Atas had been charged with

assault in February 2009, on the basis of a complaint by the tenant residing on the main  
floor.

44. The Plaintiffs plead that the defendants did not request to view 298 St George St Toronto

with the Plaintiffs and did not view the property with or through the Plaintiffs.

45. The Plaintiffs plead that the Defedants knew or ought to have known that 298 St George

St Toronto was being purchased well before appraised value.

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46. The Plaintiffs plead that the Chahals must have known or ought to have known from Peoples Trust Company disclosure that Atas had been charged with assault in February 2009, on the basis of a complaint by the tenant residing on the main floor.

47. The Plaintiffs plead that on June 30, 2009, the Defendants received the keys to 298 St George St Toronto directly from Peoples Trust Company and would have been notified of all pertinent facts related to the power of sale.

48. Furthermore, in addition to the aforesaid the Plaintiff Atas has suffered from emotional upset and distress as a result of the Defendant's conduct and is entitled to general, special, aggravated and punitive damages.

49. The Plaintiffs claim special damages as a result of the irresponsible actions of the Defendants.

50. The Plaintiffs will compile a list of propose to deliver full particulars of the damages sustained prior to the trial of this action.

51. The Plaintiffs propose that this action be tried in the City of Toronto

CV-11-429151

Date February 28, 2012

Nadire Atas

626381 Ontario Limited

25 Lascelles Blvd,

Toronto, Ontario

[Nadireatas3@gmail.com](mailto:Nadireatas3@gmail.com)

And To:

TO: KRISHAN CHAHAL

298 St George St

Toronto Ontario M5R 2P5

AND TO

NUTAN CHAHAL

298 St George St

Toronto Ontario M5R 2P5

And To:

Hodder Barristers

CV-11-429151

Business Litigation Counsel

181 University Avenue, Suite 2200

Toronto, Ontario M5H 3M7

[www.hodderbarristers.com](http://www.hodderbarristers.com)

AMENDED THIS Apr 2/12 PURSUANT TO  
MODIFIED a CONFORMÉMENT À  
RÈGLE/LA RÈGLE 26.02 ( a )  
☒ THE ORDER OF  
L'ORDONNANCE DU  
DATED / FAIT LE 2012  
REGISTRAR GREFFIER  
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

Court File No. CV-11-429151

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**NADIRE ATAS and 626381 ONTARIO LIMITED**

**Plaintiffs**

**- and -**

**KRISHAN CHAHAL and NUTAN CHAHAL**

**Defendants**

**AMENDED STATEMENT OF DEFENCE**

AMENDED STATEMENT OF DEFENCE

PAGE 2

1. The defendants admit the allegations contained in paragraphs 2, 3, 4, 5, 6, 7 and 20 of the amended statement of claim.

2. The defendants have no knowledge of the allegations contained in paragraphs 9, 10, 11, 12, 13, 15, 16, 17, 33, 34, and 40 of the amended statement of claim, and put the plaintiffs to the strictest proof of same. Specifically, the defendants have no knowledge of:

- (a) the alleged involvement of the Public Guardian and Trustee ("the PGT") as stated in the amended statement of claim or at all;
- (b) the fact that the plaintiff Nadire Atas ("Atas") was allegedly suffering from a disability and contacted the PGT about representation due to a disability at any material time.

3. The defendants deny all other allegations in the amended statement of claim except as expressly hereinafter admitted.

Background

4. The property is a semi-detached house with four residential units. In early 2009, the mortgage on the property had been in default by the plaintiff 626381 Ontario Limited ("626"), and the mortgagee, Peoples Trust Company ("Peoples Trust"), had therefore taken possession of the premises for the purpose of sale proceedings. However, the mortgagee allowed 626 to list and sell property in its own name.

AMENDED STATEMENT OF DEFENCE

PAGE 3

5. By Agreement of Purchase and Sale dated June 5, 2009 ("the Agreement of Purchase and Sale"), the defendant Nutan Chahal agreed to buy the property at 298 St. George Street, Toronto, for \$800,000, from 626 the plaintiff 626381 Ontario Limited ("626") of which Atas was the sole shareholder, officer and director.

6. The Agreement of Purchase and Sale was amended on June 12, 2009 ("the Amended Agreement of Purchase and Sale") to add the defendant Krishan Chahal as buyer and to amend the closing date to be June 19, 2009.

7. The transaction did not close on June 19, 2009 because of the plaintiffs' problems and was deferred to June 30, 2009 to accommodate the plaintiffs' request.

8. 626's lender To sell the property, the mortgagee under power of sale listed the property for sale at \$730,000, but 626 reacquired the property by paying \$788,000 for it, and that transaction closed on June 30, 2009, the same day that 626 closed its transaction with the defendants as described below.

9. Pursuant to the Agreement of Purchase and Sale and thereafter Amended Agreement of Purchase and Sale, the defendants would assume the existing tenants and Atas would have the right to occupy the second floor unit for up to 35 days after closing, with a \$115 per diem penalty if she occupied the premises beyond that time.



AMENDED STATEMENT OF DEFENCE

PAGE 4

10. At closing, on June 30, 2009, the plaintiff ~~plaintiffs~~ gave an undertaking to vacate the unit, and the 35 day occupancy period was to end on August 4, 2009.

11. After closing, the defendants became aware that Atas was not residing at the premises. They also received complaints from tenants that a stench that was emanating from the unit which Atas had occupied. They entered the unit and discovered that the unit was in total disarray with many garbage bags. The toilet in the unit was totally dry with yellow and black stains. Atas had been using the unit for the storage of garbage bags.

12. On August 4, 2009, the defendants notified Atas in writing to remove her belongings from the units pursuant to the Agreement of Purchase and Sale and her undertaking.

13. Atas nevertheless wanted to keep possession of the unit after August 4, 2009. She made an application to the Landlord and Tenant Review Board ("the LTB") on August 6, 2009 for keeping possession of the unit, which was dismissed on August 20, 2009.

14. On August 13, 2009, the LTB made an interim order ordering that:

- (a) On August 15, 2009, at 9-11am, the defendants provide access to Atas to remove her possessions from the unit;
- (b) On August 15, 2009, at 11am, Atas leave the premises; and
- (c) If Atas would not leave, the defendants may request police assistance.

AMENDED STATEMENT OF DEFENCE

PAGE 5

15. In breach of the interim order, Atas made no effort to remove her possessions from the unit. After August 15, 2009, she continued to be present in the vicinity of the building, and at one time she went to the laundry room and took the laundry money out of the machines.

16. On or about August 19, 2009, the plaintiff brought an action in the Small Claims Court against the defendants, bearing the court file number SC-09-088711-00, and the action was stayed.

17. The defendants did not have Atas' belongings removed from the premises until December 15, 2009.

18. To act in good faith, the defendants rented a storage unit to store Atas' belongings and have been paying a monthly rent of \$282 since December 15, 2009. To date, the defendants have incurred significant costs, approximately \$7,500, to preserve the plaintiffs' property, and Atas has been refusing to take possession of it.

19. Atas has brought extensive legal actions against individuals and other entities. The Public Guardian and Trust was appointed as the litigation guardian in five of actions, and Atas is self-represented as plaintiff in more than twenty other actions.

Response to the plaintiff's claims

AMENDED STATEMENT OF DEFENCE

PAGE 6

20. The defendants admit paragraph 13 of the amended statement of claim, save and except for the fact that, on April 28, 2009, the property at 298 St George Street was listed with the brokerage firm Coldwell Banker Case Realty, Brokerage for sale at \$730,000.00.
21. The defendants deny paragraphs 14 and 24 of the amended statement of claim. The defendants did not contact Peoples Trust. They viewed the property at an open house on May 16, 2009. The whole property was shown except for the unit occupied by Atas at that time.
22. On May 21, 2009, Sutton Group Associates, on behalf of the plaintiffs, re-listed this property on the Multiple Listings Service ("MLS") for \$849,900.00.
23. The defendants deny paragraphs 18 and 19 of the amended statement of claim. The property was posted as sold on May 25, 2009 on MLS. Therefore, the defendants did not submit an agreement of purchase and sale to Peoples Trust, as alleged in the amended statement of claim.
24. The defendants deny paragraph 21 of the amended statement of claim. After the property was re-listed for sale, the defendants submitted an ordinary offer to purchase the property for \$800,000.00 and the offer was accepted by the plaintiffs.
25. The defendants deny paragraph 22 of the amended statement of claim. The defendants did not receive any appraisal for the property from the plaintiffs at any material time.

AMENDED STATEMENT OF DEFENCE

PAGE 7

26. The defendants admit paragraph 23 of the statement of claim, save and except for the fact that, after the parties entered into the agreement of purchase and sale, Atas provided the defendants with a document showing that three parking spots were legally designated to the property.

27. The defendants deny paragraphs 25 and 26 of the amended statement of claim. The defendants did not change the locks on the unit occupied by Atas. Before and after the closing, Atas did not reside in the second floor unit. In early August 2009, to investigate other tenants' complaints about smells, the defendants entered the unit with a 24-hour notice to Atas and they discovered that Atas had been using the unit for the storage of garbage bags.

28. It is unrealistic for 626 now to claim that a sale price of \$800,000 was in any way improvident, given that 626 on the very same date reacquired its interest in the property for \$788,000.

29. At no material time did the defendants have any knowledge that Atas suffered from any disability. They understood her to be a registered sales person under the *Real Estate and Business Brokers Act*. They have every reason to believe, and they did believe, that she was a sophisticated person, knowledgeable in matters of real estate.

AMENDED STATEMENT OF DEFENCE

PAGE 8

30. The defendants made no representations to the plaintiffs. Indeed, while the plaintiffs plead that a fraudulent misrepresentation was made, they do not say what it might have been.

31. The plaintiffs were not induced into the Agreement of Purchase and Sale by the defendants. The property was sold under power of sale initiated by the mortgagee due to 626's default. As a sophisticated real estate sales professional, Atas, through 626, purposely reacquired the property from the Peoples Trust at a lower price and then completed her transaction with the defendants on June 30, 2009 to secure a profit in the amount of \$12,000.

32. The defendants had no direct dealings with Atas, save and except that she was present for one showing of the premises, although that showing itself did not include an inspection of the rental unit supposedly occupied by Atas.

33. The plaintiffs did not rely on any representations made by the defendants.

34. The plaintiffs have not suffered any damages as the result of the defendants' actions.

35. The defendants owe no duty of care to the plaintiffs.

36. The defendants state that they did not breach any contractual obligations to the plaintiffs, nor did they breach any duty of care in tort.

AMENDED STATEMENT OF DEFENCE

PAGE 9

37. The defendants deny that the property was listed below market value. Alternatively, if it was, the defendants did not list the property and are not responsible for any mistake that may have been made.

38. The defendants state that the subject transaction was freely negotiated between the parties, and the defendants had no reason to imagine that the transaction was in any way irregular.

39. In the alternative, the defendants state that the transaction closed with a purchase price that approximated fair market value.

40. The defendants deny that they are liable to Atas for any of her claims. The plaintiffs have already brought action against the defendants in the Small Claims Court, saying that the defendants had breached their agreement to permit 626 and Atas to occupy the premises pursuant to the subject Agreement of Purchase and Sale.

41. The defendants state that the plaintiffs should not be permitted to continue the within claim looking for similar relief arising from the same transaction.

42. In the alternative, the defendants state that the plaintiffs' damages are exaggerated and remote, if they have been sustained at all, which is denied, and the defendants state that the plaintiffs have failed to mitigate any losses which they may have in fact incurred.

AMENDED STATEMENT OF DEFENCE

PAGE 10

43. The defendants rely on the *Limitations Act*, 2002, S.O.2002, c.24, Sch. B, and plead that the plaintiffs' claims in the amended statement of claim, in any event, are statute-barred.

44. The defendants request that the plaintiffs' claims be dismissed with costs.

Date: March 21, 2012

HODDER BARRISTERS  
Adelaide Place  
181 University Avenue, Suite 2200  
Toronto, Ontario M5H 3M7

J. GARDNER HODDER  
LSUC #24990G  
(416) 601-6809  
(416) 947-0909 Fax

Lawyers for the Defendants

TO: NADIRE ATAS  
25 Lascelles Blvd.  
Toronto, Ontario M4V 2C1

Plaintiff Acting in Person

TO: 626381 ONTARIO LIMITED  
25 Lascelles Blvd.  
Toronto, Ontario M4V 2C1

Plaintiff Acting by Nadire Atas

**Exhibits 84-125  
Intentionally Omitted**

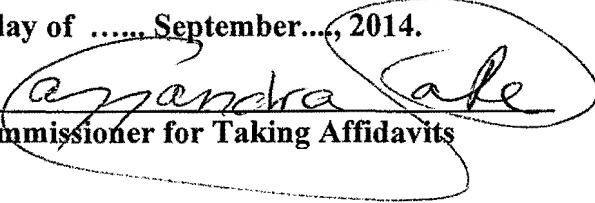


This is Exhibit ...“126”... referred to in the

Affidavit of ..... Cristine Perri ...

sworn before me, this ....23<sup>rd</sup> ....

day of ..... September...., 2014.

  
A Commissioner for Taking Affidavits

Cassandra Maria Da Re, a Commissioner,  
etc., Province of Ontario, while a  
Student-at-Law.  
Expires August 8, 2017.

Court File No. CV-10-411415

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

BETWEEN:

NADIRE ATAS and 626381 ONTARIO LIMITED

Plaintiffs

- and -

PEOPLES TRUST COMPANY

Defendant

**STATEMENT OF DEFENCE**

1. The Defendant admits the allegations contained in paragraphs 2, 3, 5, 7, 9, 12, 41, and 48 of the Statement of Claim. The Defendant admits the allegation at paragraph 6 except that it was in August, 2004, that the Plaintiffs sought mortgage refinancing with the Defendant.
2. The Defendant denies the relief claimed in paragraph 1 of the Statement of Claim and denies the allegations contained in paragraphs 8, 10, 11, 13, 14, 15, 16, 17, 19, 20 to 40, 42, 44 to 49, and 51 to 57 of the Statement of Claim.
3. The Defendant has no knowledge in respect of the allegations contained in paragraphs 4, 18, and 50 of the Statement of Claim.

**Mortgage Refinancing 2004**

4. In or about August, 2004, the Plaintiffs entered into negotiations with the Defendant to refinance a property owned by the Plaintiff, 626381 Ontario Limited ("626"), municipally known as 298 St. George Street, Toronto, Ontario (the "Property").
5. The Property is a single family home converted into four residential units. At the time, the Defendant, Nadire Atas ("Atas"), was living in one of the units.
6. In or about September, 2004, the Defendant obtained an appraisal for the Property from Appraisal 2000 Realty Group Ltd. showing the value of the Property to be \$725,000.00.

7. The Plaintiffs did not in 2004 proceed with mortgage refinancing with the Defendant.

### **Mortgage Refinancing 2006**

8. In 2006, the Plaintiffs again entered into negotiations with the Defendant for the refinancing of the Property.

9. The Defendant obtained a further appraisal of the Property from Appraisal 2000 Realty Group Ltd. dated January 4, 2006, showing the value of the Property to be \$725,000.00.

10. On March 3, 2006, the Defendant obtained a letter from Appraisal 2000 Realty Group Ltd. updating its appraisal dated January 4, 2006, and stating that as at March 3, 2006, the market value of the Property remains at \$725,000.00.

11. After several mortgage commitment extensions, the sum of \$543,750 was advanced by the Defendant to 626. A mortgage was registered on title to the Property securing this amount on May 17, 2006 (the "**Mortgage**") for a six month term. Atas guaranteed the Mortgage. A Notice of Assignment of Rents was provided by 626 to the Defendant and registered on title to the Property on May 17, 2006.

12. David Bresver of the law firm of Bresver, Grossman, Scheininger & Chapman LLP acted as Atas' lawyer in the Mortgage transaction.

### **Default in Payment Under Mortgage**

13. The Mortgage continued after the maturity date of December 1, 2006, on a month-by-month basis in accordance with the terms of the Mortgage without any formal renewal.

14. In June, 2007, 626 defaulted in payment under the Mortgage and demand was made by the Defendant for payment of the arrears. An action was commenced but was discontinued following full payment by 626 of the arrears.

15. In October, 2007, the Mortgage again was in default for non-payment of regular monthly mortgage payments and demand was made for the arrears. An action was commenced but discontinued following full payment of the arrears in January, 2008.

### **Maturity of Mortgage**

16. On March 14, 2008, the Defendant made demand from the Plaintiffs for full payment of the Mortgage advising the Plaintiffs that the Mortgage had matured and would not be renewed or extended further.

17. On May 8, 2008, the Defendant issued a Notice of Sale Under Mortgage providing until June 16, 2008, for the redemption of the Mortgage. The Mortgage was not redeemed by this date.

### **Mortgage Action**

18. On April 16, 2008, the Defendant issued a Statement of Claim, court action no. 08-CV-352871PD2, against the Plaintiffs for payment of the full amount owing under the Mortgage and for possession of the Property (the "**Mortgage Action**").

19. On May 14, 2008, the Plaintiffs' lawyers, Seon, Gutstadt, Lash LLP, served a Notice of Intent to Defend.

20. On July 4, 2008, the Plaintiff's lawyers served a Statement of Defence in which the Plaintiffs alleged *inter alia*:

- (a) that the Plaintiffs were not indebted to the Defendant;
- (b) that the Mortgage was not in default and that demand for payment was improper; and
- (c) that the Mortgage was renewed.

21. A motion for summary judgment was scheduled in the Mortgage Action for October 9, 2008, but at the request of the Plaintiffs' lawyers was adjourned to December 5, 2008.

22. On December 5, 2008, Seon, Gutstadt, Lash LLP removed themselves as lawyer of record for the Plaintiffs. The motion for summary judgment was adjourned to February 26, 2009, to permit the Plaintiffs to obtain new counsel. A further adjournment was granted by the court at the Plaintiffs' request to March 10, 2009.

23. On March 10, 2009, summary judgment was granted by the court to the Defendant for payment under the terms of the Mortgage and for possession of the Property.

***Motion to Set Aside Judgment***

24. The Plaintiffs brought a motion returnable April 27, 2009, requesting that the summary judgment be set aside. At the April 27, 2009, hearing date, Atas called herself an ambulance during a recess of the court and the court adjourned the motion to May 22, 2009.

25. On May 22, 2009, Atas again requested an adjournment of the motion. Justice Aston dismissed the motion to set aside the summary judgment dated March 10, 2009, and ordered that the Plaintiffs pay \$8,000 to the Defendant for costs.

***Appeal by the Plaintiffs***

26. The Plaintiffs appealed various Orders from the Mortgage Action to the Ontario Court of Appeal. On December 22, 2011, the Registrar of the Ontario Court of Appeal issued an Order dismissing the appeal for delay and ordered that the Plaintiffs pay \$750 to the Defendant for costs.

27. On February 10, 2012, the Ontario Court of Appeal issued an Order dismissing the Plaintiffs' motion for delay and awarded the Defendant \$750 for costs.

28. To date, the Plaintiffs have failed to pay the two aforesaid Ontario Court of Appeal cost Orders.

***Assessment of Costs Under the Mortgages Act***

29. At the request of the Plaintiffs, the Defendant took out an appointment with the court for an assessment of the Defendant's costs incurred in its power of sale proceedings pursuant to the *Mortgages Act*. The assessment was originally scheduled for November 13, 2009, and adjourned several times at the request of the Plaintiffs and finally heard on May 19, 2010.

30. The Certificate of Assessment of Costs was issued on August 29, 2011, awarding the Defendant's costs in the sum of \$86,721.68.

31. On April 2, 2012, the court set aside the Certificate of Assessment of Costs dated August 29, 2011, and directed that the matter be remitted to a different assessment officer for a further cost assessment hearing.

### **Power of Sale Proceedings**

32. In or about February, 2009, the Defendant attorned the rents for the Property and took possession of the Property with the exception of the unit in which Atas resided.

33. When the Defendant took possession of the Property there existed unresolved Ontario Fire Code Violations.

34. The Defendant, as mortgagee in possession, received complaints from the tenants regarding the condition of the Property including health and Fire Code violations, and threats made by Atas to the tenants. These events led to police involvement and criminal charges being laid against Atas.

35. The Defendant's property manager attended to various repairs to the Property and experienced various problems with Atas interfering with the repairs and being verbally abusive.

36. On or about March 4, 2009, the Defendant's real estate broker recommended to the Defendant that the Property be listed for sale at \$599,000 on an "as is basis". The Defendant's real estate broker advised the Defendant that the general overall condition of the Property was very poor, the entire property needed upgrading, and there was a lot of garbage debris scattered throughout staircases and hallways that posed health and fire hazard issues.

37. On or about March 23, 2009, the Defendant obtained an appraisal for the Property showing a market value of \$730,000.

38. On or about May 15, 2009, the Defendant obtained a further appraisal for the Property indicating a market value of \$635,000.

39. On or about April 28, 2009, the Defendant listed the property for sale for the price of \$730,000.

40. On or about May 19, 2009, the Defendant entered into an Agreement of Purchase and Sale under its power of sale to sell the Property for \$788,000 with a closing date of June 30, 2009.

41. The Defendant did not proceed with the sale of the Property on June 30, 2009, in order to permit the Plaintiffs to proceed with their sale of the property which closed on June 30, 2009, the details of which are set out in paragraphs herein that follow.

### **Eviction of Atas**

42. In preparation for the Defendant's sale of the property due to take place on June 30, 2009, the Defendant took the proper procedural steps to evict Atas from her unit at the Property in order that the Defendant could deliver vacant possession of the Property to the purchaser.

43. On or about April 30, 2009, the Defendant served the Plaintiffs with a Notice Demanding Possession requiring that the Plaintiffs vacate the Property by May 11, 2009.

44. On May 22, 2009, a Writ of Possession was issued by the court.

45. On June 11, 2009, the Sheriff attended at the Property and evicted Atas from her unit at the Property.

### **Sale of Property by Atas**

46. During the time of the Defendant's power of sale proceedings, Atas was a registered real estate agent. Atas also listed the Property for sale.

47. On or about June 5, 2009, 626 entered into an Agreement of Purchase and Sale to sell the property for \$800,000 with a closing date of June 19, 2009, which closing date was extended to June 26 and then extended again to June 30, 2009.

48. The Defendant agreed to permit the Plaintiffs' closing to proceed on the agreement that the Mortgage would be redeemed from the sale proceeds.

49. On June 30, 2009, the Defendant agreed to extend the mortgage redemption time to later that day to allow the Plaintiffs to close their sale prior to the Defendant completing its sale.

50. The Plaintiffs proceeded to close their sale of the Property on June 30, 2009, and the Defendant received full payment of its Mortgage in the sum of \$677,351.51. The Defendant agreed with the Plaintiffs that from the aforesaid sum, the sum of \$91,280.09, representing the Defendant's costs in enforcing the Mortgage, would be held in the trust account of Dale & Lessmann LLP pending an assessment of those costs under the *Mortgages Act* or an order of the court.

### **Misrepresentation – David Bresver**

51. The Defendant denies that David Bresver acted for the Defendant on the Mortgage transaction. At all times David Bresver acted for the Plaintiffs on the Mortgage transaction.

52. Atas was represented by David Bresver in another mortgage refinancing for Atas' property at 12 Wycliffe Avenue, Hamilton, Ontario, in 2005.

53. The Defendant pleads that the Plaintiffs are precluded or estopped from alleging that the Defendant misrepresented in any manner David Bresver's role in the Mortgage transaction. The Defendant relies on the doctrines of issue estoppel and *res judicata* as this issue was addressed by the court in the Mortgage Action as follows:

- (a) Atas raised the issue that David Bresver was not her lawyer before Justice Lederer on March 10, 2009, during the motion for summary judgment. Justice Lederer in his reasons for judgment stated that there was a client identification certification in which David Bresver certified that he was acting for the Plaintiffs.
- (b) The Plaintiffs filed a Notice of Appeal with the Ontario Court of Appeal appealing the Judgment of Justice Lederer dated March 10, 2009, in which one of the grounds for appeal as stated therein was that "the learned judge erred in determining that there was no conflict of interest in David Bresver, solicitor for Peoples Trust, also representing 626381 Ontario Ltd. and Nadire Atas". All



appeals by the Plaintiffs are now dismissed for delay and the decision of Justice Lederer is now final.

- (c) The Plaintiffs again raised the issue that David Bresver was acting for both the Plaintiffs and the Defendants in the Mortgage transaction before the court in the Mortgage Action on April 16, 2010. The Plaintiffs' motion was dismissed by Justice D.A. Wilson.
- (d) The Plaintiffs filed a Notice of Appeal with the Ontario Court of Appeal appealing the Order of Justice D.A. Wilson dated April 16, 2010. That appeal has also been dismissed for delay making the Order final.

54. The Defendant pleads that the Plaintiffs' allegations regarding the representation by David Bresver is an abuse of process. Not only has the claim been raised previously in the Mortgage Action and dismissed but the Plaintiffs have commenced a separate action against David Bresver and his law firm in Action No. CV-10-411424 making the same allegations.

55. The Defendant pleads that any cause of action by the Plaintiffs relating to issues involving David Bresver is statute barred pursuant to the *Limitations Act, 2002*, S.O. 2002, c. 24., Sch. B.

### **Misrepresentation – Default Under Mortgage**

56. The Defendant denies that it made monetary errors with respect to the amounts owing under the Mortgage, and that it engaged in bad faith and misrepresentation in commencing the Mortgage Action.

57. The Defendant pleads that the Plaintiffs are precluded or estopped from making the allegations referred to in the immediately preceding paragraph. The Defendant relies on the doctrines of issue estoppel and *res judicata* as this issue was addressed by the court in the Mortgage Action by Justice Lederer in his Judgment dated March 10, 2009, and by Justice Aston in his Order dated May 22, 2009, both of which were appealed but dismissed for delay.

### **Discrimination on Grounds of Disability**

58. The Defendant denies that it had reason to believe that Atas was a party under disability as defined by the Ontario *Rules of Civil Procedure* that required a litigation guardian during court proceedings between the Defendant and the Plaintiffs.

59. The Defendant denies that as a litigant involved in court proceedings with the Plaintiffs, the Defendant owed a duty of care to the Plaintiffs as opposing parties.

60. The Defendant pleads that the only medical notes or records that Atas provided to the court and the Defendant were as follows:

- (a) 2007 – two doctors' notes;
- (b) 2008 – one doctor's note; and
- (c) 2009 – four doctors' notes and the second pages of two Emergency Triage Records.

61. The Defendant pleads that none of the said doctors' notes referred to Atas' mental state or ongoing psychiatric treatment other than two doctors that stated that Atas' illness affected her ability to participate in legal proceedings.

62. The Defendant pleads that the said doctors notes and records were provided to the court by Atas in an attempt to obtain adjournments from the court and delay proceedings.

63. On or about May 19, 2009, Atas attended at the Office of the Public Guardian and Trustee (the "PGT") and requested that the PGT act as her litigation guardian. Atas provided the PGT with the endorsement of Justice Strathy dated May 14, 2009, from a court action between the Defendant and Atas involving another property, wherein the court advised Atas of the procedure required for the appointment of a litigation guardian. Atas advised the PGT that she had a motion scheduled in the Mortgage Action for the appointment of a litigation guardian on May 22, 2009.

64. On May 20, 2009, the PGT sent a letter to Atas explaining that the process for the appointment of a litigation guardian is that a motion is brought before the court by one of the

parties to the action wherein the court would determine whether or not Atas is under a disability. The PGT advised in its letter to Atas that the PGT had advised the Defendant of Atas' contact with the PGT and her claim to being under a disability.

65. On May 20, 2009, the PGT also sent a letter to the Defendant's lawyers advising that Atas feels she is a party under a disability. In that letter PGT advises that should Atas not properly bring a court motion to determine whether or not Atas is a party under disability, that the only remaining party in a position to do so is the Defendant as the PGT cannot or will not bring such a motion.

66. The Defendant pleads that Atas is under the impression that the Defendant and its lawyers owe Atas or the courts a professional or fiduciary duty to bring a motion to determine whether or not she is a person under a disability under Rule 7.01 of the Ontario *Rules of Civil Procedure*. The Defendant expressly denies that under the circumstances of its dealings with Atas, that the Defendant or its lawyers had any such duty.

67. At no time in any proceedings in which the Defendant was involved with Atas, was a litigation guardian appointed on behalf of Atas.

68. On or about July 23, 2010, Atas had the PGT appointed as her litigation guardian in actions *unrelated* to any actions to which the Defendant was or is a party.

69. The Defendant pleads that Atas sought the appointment of the PGT as her litigation guardian because she believed that the PGT was the equivalent of a lawyer who would represent her free of charge. On or about November 1, 2010, when Atas determined that the PGT had settled five of her actions, she claimed that she was no longer under a disability and requested that the PGT be removed as her litigation guardian.

70. Atas was represented by a lawyer during various stages of the proceedings between the Defendant and Atas regarding the Property as follows and during that time no lawyer indicated that Atas was under a disability:

- (a) The Plaintiffs were represented from on or about May 30, 2008, to December 5, 2008; and

- (b) The Plaintiffs were represented from on or about May 26, 2009, to April 16, 2010, during which time the Defendant evicted Atas from the Property, removed her personal possessions with extensive notice, permitted Atas to sell the Property and redeem the mortgage, and commence an assessment of costs under the *Mortgages Act*.

71. The Defendant relies on the doctrines of issue estoppel and *res judicata* regarding whether Atas was under any disability within the meaning of Rule 7.01 of the Ontario *Rules of Civil Procedure* in proceedings involving the Defendant as this issue was addressed by the court as follows:

- (a) On May 12, 2009, Justice Aston adjourned the Plaintiffs' motion to set aside the Judgment as Atas advised the court that she wished to bring a motion to appoint a litigation guardian on her behalf.
- (b) On May 22, 2009, Justice Aston heard the motion to set side the Judgment, refused any further adjournments, and dismissed the Plaintiffs' motion.
- (c) On April 16, 2010, Justice D.A.Wilson heard a motion brought by the Plaintiffs in which Atas claimed she was a party under a disability. Justice D.A.Wilson commented in her May 21, 2010, cost endorsement on Atas' delay tactics and her claim that she is under a disability as follows:

“....to the contrary, she was articulate and most capable of presenting argument on her own behalf.”

- (d) On August 24, 2010, Atas brought a motion in the Ontario Court of Appeal requesting the appointment of the PGT as her litigation guardian. After several adjournments at the request of Atas, the motion was heard on October 17, 2011, at which time Atas withdrew her request that the PGT be appointed as her litigation guardian. Justice Cronk determined that the involvement of the PGT was not required.

72. On or about August 4, 2011, Atas filed a complaint with the Human Rights Tribunal of Ontario against the Defendant making the identical claims of discrimination as claimed in the Statement of Claim herein. The Defendant pleads that this is an abuse of process.

73. The Defendant relies on section 46(2) of the *Ontario Human Rights Code* which states that a person cannot commence a court action solely for discrimination infringement under the *Ontario Human Rights Code*.

### **Conversion of Property**

74. The Defendant denies that it converted or wrongfully interfered with the Plaintiffs' personal property. The Defendant denies that it caused any damage or loss to the Plaintiffs' personal property.

75. The Defendant pleads that it had the right under the terms of the Mortgage and took all proper legal procedures to vacate the Plaintiffs' personal property from the Property in order to ensure that the Defendant could offer vacant possession to the Defendant's purchaser on June 30, 2009.

### **Removal of Atas' Personal Property From Common Areas of Property**

76. On or about April 2, 2009, the Defendant's property manager requested that Atas remove her personal furniture and house wares from the common areas of the Property by April 15, 2009, as the items were in violation of the Fire Code. Atas advised the Defendant that the items did not constitute a fire hazard and that she would only remove the items if ordered by the Fire Department. Atas insisted that the items in the common areas contained new rugs, furniture, new personal belongings, important business documents, and fireplace inserts.

77. On or about May 13, 2009, the Defendant sent a letter to the Plaintiffs enclosing a copy of the Notice of Violation from the Toronto Fire Services. The letter provides the Plaintiffs with a further opportunity to remove the items from the common areas by May 20, 2009, failing which the items would be placed in a storage facility without further notice.

78. On or about May 22, 2009, the Defendant advised the Plaintiffs in writing that they had failed to remove the items from the common areas of the Property. The Plaintiffs were

advised that the items would be removed to a storage facility and the Plaintiffs would be advised of the location and information regarding access to the items.

79. On or about June 3, 2009, the Defendant advised the Plaintiffs in writing that the items in the common areas of the Property were removed on June 2, 2009, to a public secure storage facility. The Plaintiffs were advised that they had 60 days in which to take over the rental agreement for the storage facility failing which the personal property would be considered abandoned.

80. On or about June 5, 2009, the Defendant sent a letter to the Plaintiffs listing the items that were moved from the common areas of the Property to the storage facility.

***Removal of Contents from Atas' Unit at the Property***

81. On or about June 12, 2009, the Defendant sent a letter to the Plaintiffs advising that the Sheriff had enforced the Writ of Possession on June 11, 2009. The letter provided the Plaintiffs until June 28, 2009, to make arrangements to remove the contents from Atas' unit on the Property.

82. On or about June 26, 2009, the Defendant sent a letter to the Plaintiffs' lawyer, Nicolas Canizares, advising that Atas was to remove the contents from her unit at the Property by June 29, 2009.

83. On or about July 3, 2009, the Defendant sent a letter to the Plaintiffs' lawyer, Nicolas Canizares, advising of all the notices given to the Plaintiff regarding removal of items from the Property. The Plaintiffs' lawyer was advised that notice was given to the Plaintiffs to assume the lease for the storage facility by July 30, 2009, failing which the contents would be considered abandoned.

84. On or about August 6, 2009, the Defendant provided a further extension of time to the Plaintiffs to assume the lease for the storage facility.

85. After many delays by Atas to assume the lease for the storage facility, Atas finally arranged to do so on August 30, 2009. Atas arranged to assume the lease of the storage facility for September 1, 2009.

**Negligence or Misrepresentation of Value of the Property**

86. The Defendant denies that it failed to take all reasonable steps to value and list the Property for sale.

87. On or about March 4, 2009, the Defendant's real estate broker recommended to the Defendant that the Property be listed for sale at a price of \$599,000 on an "as is basis". The Defendant was advised that the general overall condition of the Property was very poor, the entire Property needed upgrading, and the Property contained a lot of garbage debris scattered throughout the staircases and hallways posing health and fire hazard issues.

88. On or about March 23, 2009, the Defendant obtained an appraisal for the Property indicating the value of the Property to be \$730,000.

89. On or about May 15, 2009, the Defendant obtained a further appraisal for the Property which indicated a value of \$635,000.

90. On or about April 28, 2009, the Defendant listed the Property for sale at a price of \$730,000.

91. On or about May 19, 2009, the Defendant entered into an Agreement of Purchase and Sale under its power of sale to sell the Property for \$788,000 with a closing date of June 30, 2009.

**Mismanagement of Property**

92. The Defendant denies that it mismanaged the Property rents or wrongfully claimed the cost of repairs to the Property while the Defendant was in possession of the Property.

93. The Defendant pleads that the Plaintiffs are precluded or estopped from alleging any mismanagement of the property as these issues will be dealt with on the further cost assessment hearing to take place in accordance with the endorsement of Justice Stinson dated April 2, 2012. The Defendant relies on the doctrines of issue estoppel and *res judicata*.



**Unjust Enrichment**

94. The Defendant denies that it received any monies that it was not entitled to under the terms of the Mortgage.

95. The Defendant pleads that the Plaintiffs are precluded and estopped from alleging that the Defendant was unjustly enriched as the Defendant received a final Judgment against the Plaintiffs for payment under the Mortgage. The Defendant's reasonable costs incurred in its mortgage enforcement procedures under the Defendant's power of sale rights have been assessed by the court.

**Punitive Damages**

96. The Defendant denies that it engaged in any conduct that would give rise to a claim for aggravated, exemplary or punitive damages and puts the Plaintiffs to the strict proof thereof. The Defendant at all times acted in good faith and without malice, and in accordance with any duties owed to the Plaintiffs, which are not admitted but denied.

**Mental Distress**

97. The Defendant denies the allegations set out in paragraph 57 of the Statement of Claim, and denies that it did anything that would entitle Atas to a claim for mental distress damages.

**Generally**

98. The Defendant puts the Plaintiffs to the strict proof of all the allegations contained in the Statement of Claim except as expressly admitted herein.

99. The Defendant denies that it breached any duty to the Plaintiffs, contractual or otherwise, as alleged in the Statement of Claim or at all.

100. Further, in the alternative, if the Defendant did breach any duty to the Plaintiffs, contractual or otherwise, which is denied, such breach did not cause or contribute to any loss suffered by the Plaintiffs.

101. Further, and in the alternative, the loss complained of by the Plaintiffs was solely caused, or alternatively contributed to, by their own actions and decisions as outlined herein.



102. The Defendant denies that the Plaintiffs have suffered the damages alleged in the Statement of Claim, or any damages whatsoever. If the Plaintiffs have suffered damages, which is not admitted but denied, then the Defendant states that the damages claimed are excessive, exaggerated, and remote, and that the Defendant is not responsible in law for such damages. Without limiting the generality of the foregoing, the Defendant states that the Plaintiffs have failed, refused, or neglected to take any reasonable, prudent, and proper steps to mitigate the losses or damages in a timely manner.

103. The Defendant pleads that the claims alleged by the Plaintiffs in the Statement of Claim are vexatious and an abuse of the court's process.

104. The Defendant objects to 626 proceeding with this action without representation by a lawyer unless it obtains leave of the court to do so.

105. The Defendant submits that the Plaintiffs' action as against it be dismissed with costs payable by the Plaintiffs to the Defendant.

April 10, 2012

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